

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: April 17, 2013

**SUBJECT: AN ORDINANCE AMENDING TITLE 20 OF THE SAN JOSE
MUNICIPAL CODE (THE ZONING ORDINANCE) TO AMEND:**

- SECTION 20.30.100 OF CHAPTER 20.30 (RESIDENTIAL ZONING DISTRICTS) TO ALLOW OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES ON SCHOOL, LIBRARY, COMMUNITY CENTER, AND RELIGIOUS ASSEMBLY SITES IN RESIDENTIAL ZONING DISTRICTS;
- SECTIONS 20.40.100 AND 20.40.520 OF CHAPTER 20.40 (COMMERCIAL ZONING DISTRICTS) TO ALLOW OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES IN COMMERCIAL ZONING DISTRICTS;
- SECTION 20.50.100 OF CHAPTER 20.50 (INDUSTRIAL ZONING DISTRICTS) TO ALLOW OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES IN INDUSTRIAL ZONING DISTRICTS;
- SECTION 20.70.100 OF CHAPTER 20.70 (DOWNTOWN ZONING DISTRICTS) TO ALLOW OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES, AND TO ALLOW BANQUET FACILITIES AS GROUND-FLOOR SPACE USES, IN DOWNTOWN ZONING DISTRICTS;
- SECTIONS 20.75.200 AND 20.75.320 OF CHAPTER 20.75 (PEDESTRIAN ORIENTED ZONING DISTRICTS) TO ALLOW CERTIFIED FARMERS' MARKETS, NEIGHBORHOOD AGRICULTURE AND OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES IN PEDESTRIAN ORIENTED ZONING DISTRICTS;
- SECTIONS 20.80.810 AND 20.80.820 OF CHAPTER 20.80 (SPECIFIC USE REGULATIONS, OUTDOOR VENDING FACILITIES) TO ALLOW OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES AND OTHER PRODUCTS IN CONFORMANCE WITH SPECIFIC REGULATIONS WITHOUT AN ADMINISTRATIVE PERMIT;
- AND TO RENUMBER SECTIONS 20.200.400 (FLAG LOT) AND 20.200.410 (FIXED BASED HOST) OF CHAPTER 20.200 (DEFINITIONS) WITHOUT SUBSTANTIVE AMENDMENT;

ALL TO FURTHER IMPLEMENT THE DESIGN FOR A HEALTHFUL COMMUNITY MAJOR STRATEGY, THE VIBRANT NEIGHBORHOODS GOALS AND POLICIES, THE ECONOMIC DEVELOPMENT GOALS AND POLICIES, AND THE LAND USE GOALS AND POLICIES SET FORTH WITHIN THE ENVISION SAN JOSE 2040 GENERAL PLAN AND TO MAKE OTHER TECHNICAL, FORMATTING OR OTHER NONSUBSTANTIVE CHANGES WITHIN THOSE SECTIONS OF TITLE 20. FILE NO. PP13-024.

RECOMMENDATION

The Planning Commission voted 6-0-1 (Bit-Badal absent) to recommend to the City Council the approval of an ordinance amending Title 20 (the Zoning Ordinance) of the San José Municipal Code to amend Outdoor Vending requirements for certain enumerated uses to further implement the Design for a Healthful Community Major Strategy, the Vibrant Neighborhoods Goals and Policies, the Economic Development Goals and Policies, and the Land Use Goals and Policies set forth within the Envision San José 2040 General Plan and to make other technical, formatting or other nonsubstantive changes within those sections of Title 20.

OUTCOME

Zoning Ordinance regulations for Outdoor Vending on privately-owned parcels would be streamlined to facilitate compliance by: 1) clarifying and refining regulations and responsibilities for the siting, operation and maintenance of Outdoor Vending Facilities to maintain and use compatibility, appearance, and safety; and 2) allowing Outdoor Vending of fresh fruits and vegetables in residential and nonresidential zoning districts and eliminating the requirement to obtain an Administrative Permit for this use if the use is conducted in compliance with certain requirements.

BACKGROUND

On April 10, 2013, the Planning Commission conducted a public hearing on the proposed ordinance. See the attached Staff Report to the Planning Commission for the full analysis, description of the public outreach, and coordination conducted on the proposed amendments to Title 20 (the Zoning Ordinance).

ANALYSIS

Staff summarized the proposed ordinance, and noted that the amendments are being processed concurrently with San José Municipal Code changes (to Title 6) for outdoor peddling in the public right-of-way. The proposed changes to both Title 20 and Title 6 related to Outdoor Vending and Peddling are scheduled to be considered together by the City Council in a public hearing on May 7, 2013.

Public Testimony

Community representatives from the Health Trust, Somos Mayfair, Garden to Table/CommUnivCity, and La Mesa Verde Program/Sacred Heart Community Service, as well as an outdoor vendor, spoke in support of the proposed ordinance and stated that the ordinance would improve local access to fresh fruits and vegetables, especially in low-income neighborhoods, create small business opportunities that would provide supplemental income for working families in the City, enhance City tax receipts, help launch Fresh Cart Silicon Valley spearheaded by the Health Trust with partners, foster public activity in public spaces, simplify the Outdoor Vending permit process, and reduce childhood obesity.

Planning Commission Discussion

The Planning Commission asked staff clarifying questions regarding the cost of a Planning Permit for Outdoor Vending, the applicability of minimum required setbacks from a residentially used lot for Outdoor Vending of fresh fruits and vegetables — which staff distinguished from a mixed-use lot without such setbacks — and the rationale for proposing a 2-hour limit per day without a Planning Permit for Outdoor Vending of products other than fruits and vegetables. Staff explained that the proposed 2-hour daily limit is actually an expansion of the current Zoning Ordinance provision that stipulates a ½ -hour daily limit for Outdoor Vending; the change is intended to better facilitate viable short-term Outdoor Vending on private property without a Planning Permit. Staff elaborated further that Outdoor Vending Facilities would still have the option to operate for a longer period per day if these facilities were approved by an Administrative Permit or by a Special Use Permit as applicable.

The Commissioners expressed enthusiastic support for the proposed ordinance in helping to enable easy access to fresh fruits and vegetables. They thanked the community members in attendance for speaking and partnering on this endeavor, the City Council for putting the proposed ordinance on their priority list; and staff for their work on both this effort and the previous Certified Farmers' Market ordinance. The Planning Commission then approved a motion to recommend Council approval per staff recommendation.

EVALUATION AND FOLLOW-UP

If the City Council votes to approve this ordinance, it would become final following a second reading at a subsequent City Council hearing and effective 30 days following that second reading. If the ordinance is approved, Title 20 of the City's Municipal Code will be updated and provide greater clarity and flexibility for Outdoor Vending on privately-owned parcels in conventional zoning districts in the City of San José.

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PUBLIC OUTREACH/INTEREST

- ☐ **Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
(Required: Website Posting)
- ☐ **Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City.
(Required: E-mail and Website Posting)
- ☐ **Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30; Public Outreach Policy. A community meeting held on March 21, 2013 and the details of the community comments can be found in the attached staff report.

COORDINATION

Preparation of this report and the proposed ordinance were coordinated with the City Attorney's Office and the City Manager's Office.

CEQA

Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the Envision San José 2040 General Plan Program. Accordingly, the Final Program Environmental Impact Report (PEIR) for the Envision San José 2040 General Plan entitled, "Envision San José 2040 General Plan," for which findings were adopted by City Council Resolution No. 76041 on November 1, 2011, adequately describes the activity for the purposes of CEQA. The project does not involve new significant effects beyond those analyzed in this Final PEIR. Therefore, the City of San José may take action on the project as being within the scope of the Final PEIR, File No. PP13-024.

/s/

JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Andrew Crabtree at 408-535-7893.

Attachment: Planning Commission Staff Report



Memorandum

TO: PLANNING COMMISSION

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: April 2, 2013

SUBJECT: AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 OF THE SAN JOSE MUNICIPAL CODE (THE ZONING ORDINANCE) TO AMEND: SECTION 20.30.100 OF CHAPTER 20.30 (RESIDENTIAL ZONING DISTRICTS) TO ALLOW OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES ON SCHOOL, LIBRARY, COMMUNITY CENTER, AND RELIGIOUS ASSEMBLY SITES IN RESIDENTIAL ZONING DISTRICTS; SECTIONS 20.40.100 AND 20.40.520 OF CHAPTER 20.40 (COMMERCIAL ZONING DISTRICTS) TO ALLOW OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES IN COMMERCIAL ZONING DISTRICTS; SECTION 20.50.100 OF CHAPTER 20.50 (INDUSTRIAL ZONING DISTRICTS) TO ALLOW OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES IN INDUSTRIAL ZONING DISTRICTS; SECTION 20.70.100 OF CHAPTER 20.70 (DOWNTOWN ZONING DISTRICTS) TO ALLOW OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES, AND TO ALLOW BANQUET FACILITIES AS GROUND-FLOOR SPACE USES, IN DOWNTOWN ZONING DISTRICTS; SECTIONS 20.75.200 AND 20.75.320 OF CHAPTER 20.75 (PEDESTRIAN ORIENTED ZONING DISTRICTS) TO ALLOW CERTIFIED FARMERS' MARKETS, NEIGHBORHOOD AGRICULTURE AND OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES IN PEDESTRIAN ORIENTED ZONING DISTRICTS; SECTIONS 20.80.810 AND 20.80.820 OF CHAPTER 20.80 (SPECIFIC USE REGULATIONS, OUTDOOR VENDING FACILITIES) TO ALLOW OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES AND OTHER PRODUCTS IN CONFORMANCE WITH SPECIFIC REGULATIONS WITHOUT AN ADMINISTRATIVE PERMIT; AND TO RENUMBER SECTIONS 20.200.400 (FLAG LOT) AND 20.200.410 (FIXED BASED HOST) OF CHAPTER 20.200 (DEFINITIONS) WITHOUT SUBSTANTIVE AMENDMENT; ALL TO FURTHER IMPLEMENT THE DESIGN FOR A HEALTHFUL COMMUNITY MAJOR STRATEGY, THE VIBRANT NEIGHBORHOODS GOALS AND POLICIES, THE ECONOMIC DEVELOPMENT GOALS AND POLICIES, AND THE LAND USE GOALS AND POLICIES SET FORTH WITHIN THE ENVISION SAN JOSE 2040 GENERAL PLAN AND TO MAKE OTHER

**TECHNICAL, FORMATTING OR OTHER NONSUBSTANTIVE
CHANGES WITHIN THOSE SECTIONS OF TITLE 20. FILE NO. PP13-
024.**

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend to the City Council to approve an Ordinance of the City of San José amending Title 20 of the San José Municipal Code (the Zoning Ordinance) to amend:

- Section 20.30.100 of Chapter 20.30 (Residential Zoning Districts) to allow Outdoor Vending of Fresh Fruits and Vegetables on School, Library, Community Center, and Religious Assembly sites in Residential Zoning Districts;
- Sections 20.40.100 and 20.40.520 of Chapter 20.40 (Commercial Zoning Districts) to allow Outdoor Vending of Fresh Fruits and Vegetables in Commercial Zoning Districts;
- Section 20.50.100 of Chapter 20.50 (Industrial Zoning Districts) to allow Outdoor Vending of Fresh Fruits and Vegetables in Industrial Zoning Districts;
- Section 20.70.100 of Chapter 20.70 (Downtown Zoning Districts) to allow Outdoor Vending of Fresh Fruits and Vegetables, and to allow Banquet Facilities as Ground-floor Space Uses, in Downtown Zoning Districts;
- Sections 20.75.200 and 20.75.320 of Chapter 20.75 (Pedestrian Oriented Zoning Districts) to allow Certified Farmers' Markets, Neighborhood Agriculture and Outdoor Vending of Fresh Fruits and Vegetables in Pedestrian Oriented Zoning Districts;
- Sections 20.80.810 and 20.80.820 of Chapter 20.80 (Specific Use Regulations, Outdoor Vending Facilities) to allow Outdoor Vending of Fresh Fruits and Vegetables and other products in conformance with specific regulations without an Administrative Permit; and
- To renumber Sections 20.200.400 (Flag Lot) and 20.200.410 (Fixed Based Host) of Chapter 20.200 (Definitions) without substantive amendment;

all to further implement the Design for a Healthful Community Major Strategy, the Vibrant Neighborhoods Goals and Policies, the Economic Development Goals and Policies, and the Land Use Goals and Policies set forth within the Envision San José 2040 General Plan and to make other technical, formatting or other nonsubstantive changes within those sections of Title 20.

OUTCOME

Approval of these ordinance amendments will facilitate outdoor vendors' compliance with the Zoning Ordinance by: 1) clarifying and refining regulations and responsibilities for the siting, operation and maintenance of Outdoor Vending Facilities on private property to maintain land use compatibility, appearance, and safety; and 2) allowing Outdoor Vending of fresh fruits and vegetables in residential and nonresidential zoning districts and eliminating the requirement to obtain an Administrative Permit for this use if the use is conducted in compliance with certain requirements.

BACKGROUND

In February 2012, the City Council listed the streamlining of mobile vending regulations to facilitate the vending of fresh fruits and vegetables as a "top 10" priority for ordinance amendments to the San José Municipal Code.

Previously, in October 2011, the City Council directed staff to present the Council with proposed Municipal Code amendments to streamline and facilitate economic development that included allowing more flexibility in approving certain uses for the Downtown Ground-floor Space Overlay Area in the Downtown zoning districts and in establishing provisions for Certified Farmers' Markets (CFMs) in residential and nonresidential zoning districts. Additionally, the Envision San José 2040 General Plan contains implementation actions to streamline Planning processes for economic development, and the City Council has prioritized amending the Zoning Ordinance to facilitate these process improvements.

Following this direction, staff previously prepared several economic development / permit streamlining ordinances that were approved by the City Council between December 2011 and March 2013. The changes that staff is currently proposing would supplement these previous amendments to the Zoning Ordinance that were adopted in the last two years as summarized in the following table:

Topic	San José Municipal Code Amendment Scope	Ordinance No.	Effective Date
	Title 20 Changes 2011-2013		
Access to Healthful Food and Economic Development: Certified Farmers' Markets	Added Certified Farmers' Markets (CFMs) and Small CFMs as enumerated uses in the A-Agriculture and OS-Open Space Zoning Districts.	<u>29218</u>	04/04/13

Topic	San José Municipal Code Amendment Scope	Ordinance No.	Effective Date
	Title 20 Changes 2011-2013		
Access to Healthful Food and Economic Development: Certified Farmers' Markets	Added Certified Farmers Market (CFM) and Small Certified Farmers Market definitions. Conditional Use Permit (CUP) requirement for CFMs changed to Special Use Permit (SUP). Allowed Small CFMs as a Permitted Use in Commercial and IP-Industrial Park zoning districts, and in Residential zoning districts if located on a school, library, community center, or religious assembly site.	<u>29122</u>	09/27/12
Access to Healthful Food and Economic Development: Neighborhood Agriculture	Amended Chapters 20.10, 20.30, 20.40, 20.50, 20.70, 20.75, 20.80, 20.90, 20.100, and 20.200 to facilitate economic development goals and to provide for the Neighborhood Agriculture use in specified circumstances.	<u>29011</u>	02/09/12
Economic Development: Banquet Facilities	Defined "Banquet Facility" as, "a facility providing food service with tables and seating maintained and operated primarily for the purpose of serving a meal at a hosted party, banquet, or reception." This definition is intended to make clear that a Banquet Facility is not a nightclub.	<u>29218</u>	04/04/13
Economic Development: Ground Floor Uses	Amended Section 20.70.100 of Chapter 20.70 (Downtown Zoning Districts) to streamline the permit process for the operation of office and financial services uses within the DG Overlay Area (Downtown Ground-Floor Space) of the DC (Downtown Primary Commercial) and DC-NT1 (Downtown Core – Neighborhood Transition 1) Zoning Districts.	<u>29047</u>	05/04/12
Economic Development: Main Street Zoning	Added a new chapter to the Zoning Ordinance entitled "Pedestrian Oriented Zoning Districts" and established new Main Street Zoning Districts within that chapter. The Main Street Districts allow for a wide range of commercial uses, or a mix of commercial and residential uses, in a pedestrian-oriented format with buildings located close to a wide pedestrian sidewalk. The Main Street Zoning Districts are intended to be applied to the Alum Rock Neighborhood Business District between King Road and State Route 680. Actual rezoning of property to the new zoning districts will require an additional ordinance.	<u>28858</u>	01/14/11

Permitting Requirements for Outdoor Vending/Peddling in the Public Right-of-Way

The City is concurrently working on amendments to the Peddler Permit Ordinance, which would modify the conditions for Approved Location Peddlers operating in the public right-of-way, and authorize the City Manager to promulgate regulations regarding Approved Location Peddlers, to be consistent with County requirements, lift these Peddlers' cart restrictions, provide more space for these Peddlers to operate from, extend their hours of operation, and extend the term of their Peddler permit. This item is scheduled to be considered concurrently with the subject ordinance amendment by the City Council at a public hearing the afternoon of May 7, 2013.

Concurrently Pending Ordinance Amendment to Lengthen Term of Administrative Permits

A separate, related ordinance amendment that is concurrently being brought forward for Council consideration would lengthen the term of an Administrative Permit so that the initial duration would be extended from one year to three years, and the renewal term would be extended from two years to up to five years.

ANALYSIS

After reviewing the effectiveness of the current regulations in the Zoning Ordinance, and conducting community and industry outreach, Planning staff recommends additions and revisions in order to simplify requirements for Outdoor Vending in residential and nonresidential zoning districts and to allow Banquet Facilities as a stand-alone use in the Ground-floor Space Overlay Area of the Downtown Zoning Districts. The proposed provisions are analyzed below.

Allow Outdoor Vending of Fresh Fruits and Vegetables on School, Library, Community Center, and Religious Assembly Sites in Residential Zoning Districts

Currently, the Zoning Ordinance does not distinguish between Outdoor Vending of fresh fruits and vegetables and Outdoor Vending of other products. All types of Outdoor Vending require Planning permits, either an Administrative Permit in Commercial and Industrial zoning districts (that can be issued by the Planning Director without a public hearing) or a Special Use Permit in Downtown zoning districts (that can be issued by the Planning Director after a public hearing if specific findings are made). No Outdoor Vending is currently allowed in Residential zoning districts, and an Outdoor Vending Facility must be at least 150 feet away from any residence (see attached matrix of Outdoor Vending Existing and Proposed Regulations).

The proposed amendments would expand access to healthful food beyond that already provided by CFMs by allowing as a Permitted Use (with no Planning Permit required) Outdoor Vending only of fresh fruits and vegetables between 7:00 a.m. and 9:00 p.m. up to two hours a day per vendor and four hours a day per lot, on privately-owned parcels that are used primarily for schools, libraries, community centers, or religious assembly uses in Residential zoning districts. The intent is to ease access to healthful produce near where people live, work, and play, and would support micro-enterprises by simplifying and reducing Zoning regulations, to allow the sale of fresh fruits and vegetables as close as 100 feet to residentially used parcels. In order to be a Permitted Use, the vending activity must be conducted in compliance with certain operational and siting requirements that are applicable to Outdoor Vending generally in other zoning districts.

Allow Outdoor Vending of Fresh Fruits and Vegetables in Commercial, Industrial, Downtown, and Pedestrian Oriented Zoning Districts

All the existing provisions for Outdoor Vending of any type of product would apply to Outdoor Vending of fresh fruits and vegetables. As proposed, this new enumerated use would be a new Permitted Use with the following additional provisions:

- Operate between 7:00 a.m. and 9:00 p.m.
- Maintain a distance of at least 100 feet between the facility and a residentially used lot.

Allow Certified Farmers' Markets and Neighborhood Agriculture in Pedestrian Oriented Zoning Districts

Certified Farmers' Markets are currently allowed in Agricultural, Commercial, Industrial, and Downtown Zoning Districts. The proposed amendments would also allow such uses in areas of Main Street Zoning Districts that front on to commercial streets.

Neighborhood Agriculture is currently allowed as a Home Occupation in Residential zoning districts. The proposed amendments would also enumerate this use as a Permitted Use in areas of Main Street Zoning Districts that front on to residential streets.

Allow Banquet Facilities as Ground-floor Space Uses in Downtown Zoning Districts

Currently, the Zoning Ordinance allows Banquet Facilities as an incidental use with a Public Eating Establishment in the Downtown Zoning Districts' Ground-floor Space Overlay area. The proposed amendments would allow Banquet Facilities as stand-alone Permitted Uses in order to encourage occupancy of the Ground-floor Space Overlay area.

Allow Outdoor Vending of all types of products in conformance with specific regulations without an Administrative Permit

In addition to allowing Outdoor Vending of fresh fruits and vegetables in non-residential zoning districts between 7:00 a.m. and 9:00 p.m. without an Administrative Permit, staff proposes to expand the duration from ½ an hour to two hours a day for Outdoor Vending of all types of products without an Administrative Permit if the outdoor vendors of products other than fruits and vegetables meet the regulations specified in the Zoning Ordinance for such uses. If the vending activity were to occur for more than two hours in a 24-hour period, an Administrative Permit would be required.

Enforcement

As a follow-up item, staff intends to bring forward to the City Council in May modifications to the current Fines Schedule to increase and add fines, including an escalation factor, that Code Enforcement staff can use in citing property owners or permittees for noncompliance with applicable regulations in the Zoning Ordinance in order to facilitate enforcement of the existing and proposed regulations for Outdoor Vending. This modification addresses concerns raised by community members specific to Outdoor Vending.

General Plan Conformance and Implementation

As proposed by Planning staff, the regulations associated with Outdoor Vending and Banquet Facilities are consistent with the Design for a Healthful Community Major Strategy, the Vibrant Neighborhoods Goals and Policies, the Economic Development Goals and Policies, and the Land Use Goals and Policies that contribute to the City's economic and physical health. Staff's proposed

ordinance changes are intended to help implement these goals and policies in conformance with the General Plan.

The proposed ordinance changes would implement the following General Plan Major Strategy, goals, policies, and actions:

- **Innovative Economy Policy IE-6.2:** Attract and retain a diverse mix of businesses and industries that can provide jobs for the residents of all skill and education levels to support a thriving community.
- **Major Strategy #11 - Design for a Healthful Community**
Support the physical health of community members by promoting walking and bicycling as commute and recreational options, encouraging access to healthful foods, and supporting the provision of health care and safety services. The “Design for a Healthful Community” concept embodies a very broad range of topics, and “Design for a Healthful Community” strategies are integrated throughout the General Plan to establish a policy framework to shape and grow a city that provides for the physical health of its residents. General Plan policies support good nutrition and provide for economic opportunities that meet the needs of all residents throughout the City.

As a key factor to encourage the health of its residents, the Land Use/Transportation Diagram, and the Quality Neighborhoods and Land Use policies address improving access to healthful foods, particularly fresh produce. To this end, the General Plan also supports the development of urban agriculture, and the preservation of the existing agricultural lands adjacent to San José to increase the supply of locally-grown, healthful foods. The General Plan further supports Healthful Community regulatory land use policies, enabling the operation of farmer’s markets, urban farming activities, and promoting the availability of healthful foods while limiting access to alcohol at retail locations.

- **Vibrant Neighborhoods Goal VN-3 – Access to Healthful Foods**
Ensure that all residents have sufficient access to healthful food, as defined by the U.S. Department of Health and Human Services and the U.S. Department of Agriculture.
- **Vibrant Neighborhoods Access to Healthful Foods Policy VN-3.5** Encourage the location of healthful food retail, including farmers markets, in neighborhoods with high concentrations of fast food outlets compared to full-service grocery stores and fresh produce markets.
- **Vibrant Neighborhoods Access to Healthful Foods Policy VN-3.8** Collaborate with the Santa Clara County Public Health Department and the non-profit health sector to develop an economic development strategy to attract full-service grocery stores, fresh produce markets, and other healthful food retailers to low-income and nutrition deficient neighborhoods in the city. Also work collaboratively to develop an economic development strategy to attract healthful food options near schools.

- **Urban Agriculture Land Use Goals and Actions**

Urban agriculture has a wealth of health, social, environmental, and economic benefits. *Envision San José 2040 General Plan* Urban Agriculture Goals, Policies, and Implementation Actions are intended to preserve agricultural land, improve the community's access to healthful foods, promote local and ecologically sound food production, and support the ability of farmers in the region to sell their produce locally.

- **Land Use Goal LU-12 – Urban Agriculture**

Expand the cultivation and sale of locally grown agriculture as an environmentally sustainable means of food production and as a source of healthy food for San José residents.

- **Actions – Urban Agriculture**

LU-12.9 – Develop a City Council Policy to address ways San José will support Urban Agriculture. This policy should include strategies to increase access to healthful foods, particularly in low income or nutritionally-deficient areas; increase the sale and availability of locally or regionally grown foods; increase urban food production; and clearly identify the appropriate City processes for dealing with agriculture issues.

LU-12.10 – Work with the County Health Department, school districts and non-profit health organizations, particularly at schools, community centers and libraries, on efforts to educate the community on the nutritional, economic, and environmental benefits of consuming locally grown and ecologically sound foods.

- **Commercial Land Use Policy LU-3.7:** Recognize the urban nature of Downtown and support 24-hour uses and out-door uses, so long as significant adverse impacts do not occur.
- **Commercial Land Use Policy LU-5.8:** Encourage outdoor cafes and other outdoor uses in appropriate commercial areas to create a vibrant public realm, maximize pedestrian activity, and capitalize on San José's temperate climate.

Conclusion

The proposed ordinance changes can facilitate Outdoor Vending on private property, and in particular Outdoor Vending of fresh fruits and vegetables, by simplifying Zoning Ordinance regulations and reducing the costs of compliance with City regulations for vendors. Some of the existing Outdoor Vending Facilities on private property in the City of San José appear to be unpermitted and improperly maintained. With the recommended changes to the Zoning Ordinance discussed previously in this staff report, property owners and Outdoor Vending Facilities' operators should have a clearer understanding of their responsibilities in the operation and maintenance of these facilities, and their upkeep should be improved. The Council may also approve a pending staff-proposed update of the Fines Schedule to increase the range and costs of applicable fines and to escalate fines for noncompliance.

EVALUATION AND FOLLOW-UP

PBCE staff will provide additional guidance to the public on the updated Zoning Ordinance regulations and continue to enforce compliance of Outdoor Vending Facilities with the Zoning Ordinance.

PUBLIC OUTREACH/INTEREST

Staff posted information about the proposed ordinance amendments on the Planning Division website and engaged the public on issues regarding potential Zoning Ordinance changes for Outdoor Vending Facilities and Banquet Facilities during a community meeting held on March 21, 2013. Community members and industry representatives attended this meeting and commented on the effectiveness of existing and proposed regulations. Staff has also corresponded with the public by e-mail and by telephone. On March 1, 2013 staff presented the proposed changes to the PBCE Developers Roundtable, and staff also attended several meetings hosted by the Health Trust on Outdoor Vending of fresh fruits and vegetables.

Comments by Stakeholders

At the community meeting several representatives of neighborhood groups, the vending business community, and public health community organizations including a representative from the Health Trust, Communiversity/Garden, and Somos Mayfair, spoke in support of the proposed Ordinance changes. The Santa Clara County Public Health Department and several others also wrote letters of support for the proposed amendments (see attached written correspondence).

One neighborhood organization's leader stated that she was excited about more opportunities for Outdoor Vending of fresh whole fruits and vegetables and would encourage prospective vendors to work in partnership with community groups. A representative of a business organization that specializes in training for microenterprises expressed support of the proposed Ordinance changes and said that microenterprises are a key driver of an economy.

The Health Officer of the County of Santa Clara Public Health Department stated that people are more likely to buy and eat fresh fruits and vegetables if they are easily accessible and affordable. There are many areas in San José that are not within walking distance of a grocery or produce store, farmers' market, or community garden, and therefore lack access to affordable, quality fresh fruits and vegetables. Several supporters also stated that Outdoor Vending of fresh fruits and vegetables create an opportunity to increase resident's access to affordable produce while creating economic opportunity for vendors. By allowing fruit and produce vendors in residential areas as well as non-residentially zoned sites without an Administrative Permit the City will create an incentive for vendors to legally sell healthful food in those communities most in need.

There were also several residents at the community meeting that expressed opposition to Outdoor Vending, although they were generally less opposed to Outdoor Vending of fresh fruits and vegetables than to other types of Outdoor Vending. Their concerns included the extent of outdoor vendors' noncompliance with the current Zoning Ordinance regulations, and the perceived lack of code enforcement by the City. They stated that many vendors created a negative perception with the public and caused nuisances by impeding traffic, creating physical obstructions in publicly used

areas of private property (e.g., by displacing parking or blocking vehicular or pedestrian paths of travel), disturbing residents with noise, and operating in an unsanitary manner. They also said that many vendors sell sodas and other unhealthful food to children, and they unfairly compete with supermarkets, restaurants, and other “brick-and-mortar” businesses that must comply with many more City regulations. In sum, several community members stated that the City should be more consistent in enforcing its regulations so that businesses are operating on a level playing field.

One attendee of the community meeting who is interested in opening a Banquet Facility downtown stated support for the proposed amendment to allow such a use as Permitted in the Downtown Zoning Districts’ Ground-floor Space Overlay area.

Staff Response

Staff’s recommended ordinance changes and concurrently proposed Fines Schedule resolution will address many of the above-mentioned comments. To educate vendors on the updated Zoning Ordinance regulations for Outdoor Vending and improve compliance, staff intends to provide additional guidance to vendors in partnership with community groups such as neighborhood organizations and the Health Trust. In addition, in May, staff intends to propose to Council an update of the Fines Schedule to provide Code Enforcement officers with greater abilities to charge and escalate fines for noncompliance. Outdoor vendors are also required to comply with regulations for food handling and safety that are established and administered by the Santa Clara County Department of Environmental Health..

COORDINATION

Preparation of this report and the proposed ordinance were coordinated with the City Attorney’s Office and the City Manager’s Office.

CEQA

Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the Envision San José 2040 General Plan Program. Accordingly, the Final Program Environmental Impact Report (PEIR) for the Envision San José 2040 General Plan entitled, “Envision San José 2040 General Plan,” for which findings were adopted by City

PLANNING COMMISSION

April 2, 2013

Subject: Title 20 Ordinance Amendments for Outdoor Vending on Private Property

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Council Resolution No. 76041 on November 1, 2011, adequately describes the activity for the purposes of CEQA. The project does not involve new significant effects beyond those analyzed in this Final PEIR. Therefore, the City of San José may take action on the project as being within the scope of the Final PEIR, File No. PP13-024.



JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions, please contact Jenny Nusbaum, Senior Planner at 408-535-7872.

Attachments: Draft Ordinance Amendment
Matrix of Outdoor Vending on Private Property – Existing and Proposed Regulations
Public and Agency Correspondence

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 OF THE SAN JOSE MUNICIPAL CODE (THE ZONING ORDINANCE) TO AMEND: SECTION 20.30.100 OF CHAPTER 20.30 (RESIDENTIAL ZONING DISTRICTS) TO ALLOW OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES ON SCHOOL, LIBRARY, COMMUNITY CENTER, AND RELIGIOUS ASSEMBLY SITES IN RESIDENTIAL ZONING DISTRICTS; SECTIONS 20.40.100 AND 20.40.520 OF CHAPTER 20.40 (COMMERCIAL ZONING DISTRICTS) TO ALLOW OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES IN COMMERCIAL ZONING DISTRICTS; SECTION 20.50.100 OF CHAPTER 20.50 (INDUSTRIAL ZONING DISTRICTS) TO ALLOW OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES IN INDUSTRIAL ZONING DISTRICTS; SECTION 20.70.100 OF CHAPTER 20.70 (DOWNTOWN ZONING DISTRICTS) TO ALLOW OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES, AND TO ALLOW BANQUET FACILITIES AS GROUND-FLOOR SPACE USES, IN DOWNTOWN ZONING DISTRICTS; SECTIONS 20.75.200 AND 20.75.320 OF CHAPTER 20.75 (PEDESTRIAN ORIENTED ZONING DISTRICTS) TO ALLOW CERTIFIED FARMERS' MARKETS, NEIGHBORHOOD AGRICULTURE AND OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES IN PEDESTRIAN ORIENTED ZONING DISTRICTS; SECTIONS 20.80.810 AND 20.80.820 OF CHAPTER 20.80 (SPECIFIC USE REGULATIONS, OUTDOOR VENDING FACILITIES) TO ALLOW OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES AND OTHER PRODUCTS IN CONFORMANCE WITH SPECIFIC REGULATIONS WITHOUT AN ADMINISTRATIVE PERMIT; AND TO RENUMBER SECTIONS 20.200.400 (FLAG LOT) AND 20.200.410 (FIXED BASED HOST) OF CHAPTER 20.200 (DEFINITIONS) WITHOUT SUBSTANTIVE AMENDMENT; ALL TO FURTHER IMPLEMENT THE DESIGN FOR A HEALTHFUL COMMUNITY MAJOR STRATEGY, THE VIBRANT NEIGHBORHOODS GOALS AND POLICIES, THE ECONOMIC DEVELOPMENT GOALS AND POLICIES, AND THE LAND USE GOALS AND POLICIES SET FORTH WITHIN THE ENVISION SAN JOSE 2040 GENERAL PLAN AND TO MAKE OTHER TECHNICAL, FORMATTING OR OTHER NONSUBSTANTIVE CHANGES WITHIN THOSE SECTIONS OF TITLE 20

SECTION 1. Section 20.30.100 of Chapter 20.30 of Title 20 of the San José Municipal Code is amended to read as follows:

20.30.100 Allowed uses and permit requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-50.
- B. "Conditional" uses are indicated by a "C" on Table 20-50. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a conditional use permit as set forth in Chapter 20.100.
- C. "Special" uses are indicated by a "S" on Table 20-50. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100.
- D. Land uses not permitted are indicated by a "-" on Table 20-50. Land uses not listed on Table 20-50 are not permitted.
- E. "Restricted" land uses are indicated by an "R" on Table 20-50. These uses may occur in such designated districts, as an independent use, but only upon issuance of and in full compliance with a valid and effective Zoning Code Verification Certificate as set forth in Chapter 20.100.
- F. When the right column of Table 20-50 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote applies to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

Table 20-50 Residential Districts Land Use Regulations					
Use	Zoning District				Applicable Sections & Notes
	R-1	R-2	R-M	R-MH	
Residential Uses					
One-family dwelling	P	P	P	C	Note 1, Section 20.30.110
Secondary dwelling	P	-	-	-	Section 20.30.150

Two-family dwelling	-	P	P	-	Note 2, Section 20.30.110
Multiple dwelling	-	-	P	-	
Guesthouse	-	-	C	-	Section 20.30.120
Mobilehome Parks	-	-	-	P	
Travel Trailer Parks	-	-	-	C	
Residential Care Facility, six or fewer persons	P	P	P	P	
Residential Care Facility, seven or more persons	-	-	C	C	
Residential Service Facility, six or fewer persons	P	P	P	P	
Residential Service Facility, seven or more persons	-	-	C	C	
Servants quarters attached to a one-family dwelling or attached to a garage structure	P	-	-	-	Note 3
Sororities, fraternities and dormitories occupied exclusively (except for administrators thereof) by students attending college or other educational institutions	-	-	C	-	
Single Room Occupancy Living Unit	-	-	C	-	Part 15, Chapter 20.80
Residential Accessory Uses and Improvements					
Accessory buildings and structures	P	P	P	P	Note 4, Section 20.80.200
Home Occupations	P	P	P	P	Part 9, Chapter 20.80
Entertainment and Recreation Related					
Equestrian and riding club	C	-	-	-	
Golf course	C	C	C	-	Note 5
Private club or lodge	-	-	C	-	
Swim and tennis club	C	C	C	C	

Education and Training					
Child daycare center located on an existing school site or as an incident to an on-site Church/Religious Assembly use involving no building additions or changes to the site	P	P	P	P	
Day care center	C	C	C	C	
School- elementary and secondary (Public)	P	P	P	-	
School- elementary and secondary (Private)	C	C	C	-	
Public, Quasi-Public and Assembly Uses					
Cemetery	C	C	C	C	
Church/Religious Assembly	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (Privately operated)	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (Publicly operated)	P	P	P	P	
Health and Veterinary Services					
Emergency ambulance service	C	C	C	C	
General Services					
Certified farmers' market	S	S	S	S	Part 3.5, Chapter 20.80; Note 7
Certified farmers' market - small	P	P	P	P	Part 3.5, Chapter 20.80; Note 7
Neighborhood agriculture	P	P	P	P	Part 9, Chapter 20.80
<u>Outdoor vending - fresh fruits and vegetables</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Part 10, Chapter 20.80; Notes 7 and 8</u>
Bed & Breakfast	C	C	C	-	
Transportation and Utilities					

Community television antenna systems	C	C	C	C	
Off-site, alternating use and alternative use parking arrangements	S	S	S	S	Section 20.90.200
Parking establishment, off-street	C	C	C	C	Section 20.90.150
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	
Wireless communication antenna	C	C	C	C	Sections 20.30.130, 20.30.140 and 20.100.1300
Wireless communication antenna, slimline pole	S	S	S	S	Sections 20.30.130, 20.30.140, and 20.80.1900
Wireless communication antenna, building mounted	P	P	P	P	Sections 20.30.130, 20.30.140, and 20.80.1910
Electrical Power Generation					
Stand-by/Backup					
Facilities that do not exceed noise or air standards	S	S	S	S	Note 6
Facilities that do exceed noise or air standards	-	-	-	-	
Solar Photovoltaic System	P	P	P	P	Sections 20.100.610 C.7. and 20.100.1030 A.6.
Historic Reuse					
Historic landmark structure reuse	C	C	C	C	Part 8.5 Chapter 20.80

Notes:

1. Only one one-family dwelling unit per lot in the R-1, R-2, R-M and R-MH Districts.

2. Only one primary dwelling structure per lot in the R-2 District.
3. Only permitted in the R-1-1 Estate Residential District.
4. No lot may be used solely for an accessory structure or building.
5. No driving ranges or miniature golf facilities.
6. Stand-by or backup generators that would not otherwise require some permit from the city (including but not limited to building, electrical, or mechanical), and do meet the applicable noise and air standards are not subject to the special use permit requirement.
7. Allowed on school sites, library sites, community center sites, or church/religious assembly sites only.
8. The activity must conform with the location and operational requirements in Section 20.80.820 of Part 10, Chapter 20.80. Allowed for up to two (2) hours per day for each vending facility, but not to exceed four (4) hours per day per lot.

SECTION 2. Section 20.40.100 of Chapter 20.40 of Title 20 of the San José Municipal Code is amended to read as follows:

20.40.100 Allowed uses and permit requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-90.
- B. "Conditional" uses are indicated by a "C" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a conditional use permit as set forth in Chapter 20.100.
- C. "Special" uses are indicated by a "S" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100.
- D. "Administrative" uses are indicated by an "A" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an administrative permit as set forth in Chapter 20.100.
- E. "Restricted" land uses are indicated by an "R" on Table 20-90. These uses may occur in such designated districts, as an independent use, but only upon

issuance of and in full compliance with a valid and effective Zoning Code Verification Certificate as set forth in Chapter 20.100.

- F. Land uses not Permitted are indicated by a "-" on Table 20-90. Land uses not listed on Table 20-90 are not permitted.
- G. When the right column of Table 20-90 includes a reference to a Section number or a footnote, the regulations cited in the section number or footnote applies to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

Table 20-90 Commercial Districts Land Use Regulations					
Use	Zoning District				Notes & Section
	CO	CP	CN	CG	
General Retail					
Retail sales, goods and merchandise	-	P	P	P	
Alcohol, off-site sales - beer and/or wine only	-	C	C	C	Section 20.80.900
Alcohol, off-site sales, full range of alcoholic beverages	-	C	C	C	Section 20.80.900
Bakery, retail	-	P	P	P	
Certified farmers' market	S	S	S	S	Part 3.5, Chapter 20.80
Certified farmers' market - small	P	P	P	P	Part 3.5, Chapter 20.80
Food, beverage, groceries	-	P	P	P	
Nursery, plant	-	P	P	P	Note 1
Outdoor vending	-	A	A	A	Part 10, Chapter 20.80

<u>Outdoor vending - fresh fruits and vegetables</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Part 10, Chapter 20.80</u>
Pawn shop/broker	-	C	C	C	See Title 6
Seasonal sales					Part 14, Chapter 20.80
Retail art studio	-	P	P	P	Section 20.80.1175
Education and Training					
Child day care center located on an existing school site or as an incident to an on-site church/religious assembly use involving no building additions or changes to the site	P	P	P	P	
Day care center	C	C	C	C	
Instructional art studios	-	P	P	P	
Instructional art studios, with live models	-	C	C	C	
Private Instruction, personal enrichment	-	P	P	P	
School - elementary and secondary (public or private)	C	C	C	C	Note 16
School, driving (class C & M license)	-	P	P	P	Note 2
School, post secondary	-	P	P	P	Note 3
School, trade and vocational	-	C	C	C	
Entertainment and Recreation Related					
Arcade, amusement	-	C	C	C	
Dancehall	-	C	C	C	
Poolroom/billiards establishment	-	C	C	C	
Private club or lodge	C	C	C	C	
Recreation, commercial (indoor)	-	P	P	P	
Recreation, commercial (outdoor)	-	C	C	C	

Relocated cardroom	-	-	-	C	Section 20.80.1155
Theatre, indoor	-	C	C	C	
Theatre, outdoor	-	-	-	C	
Food Services					
Banquet facility	-	C	C	C	
Caterer	-	P	P	P	Note 4
Drinking establishments	-	C	C	C	
Drinking establishments interior to a full-service hotel/motel that includes 75 or more guest rooms	-	P	P	P	Section 20.80.475
Public eating establishments	-	P	P	P	
Outdoor dining, incidental to a public eating establishment or a retail establishment	-	P	P	P	Section 20.40.520
Wineries, breweries	-	C	C	C	
Incidental recreational dancing as part of a public eating establishment or drinking establishment	-	P	P	P	
Health and Veterinary Services					
Animal boarding, indoor	-	P	P	P	Section 20.40.120
Animal grooming	-	P	P	P	Section 20.40.120
Emergency ambulance service	C	C	C	C	
Hospital/ in-patient facility	C	C	C	C	
Medical marijuana collective [USE SUSPENDED]	-	-	-	R	Part 9.5, Chapter 20.80
Office, medical	P	P	P	P	
Veterinary clinic	-	P	P	P	
General Services					

Bail bond establishment - outside main jail area	-	P	P	P	Part 1.5, Chapter 20.80
Bail bond establishment - within main jail area	-	P	P	P	Note 14; Part 1.5, Chapter 20.80
Bed and breakfast	-	P	P	P	Part 2, Chapter 20.80
Dry cleaner	-	P	P	P	
Hotel/motel	-	P	P	P	
Laundromat	-	P	P	P	
Maintenance and repair, small household appliances	-	P	P	P	
Messenger services	P	P	P	P	Note 2
Mortuary and funeral services	P	P	P	P	
Personal services	-	P	P	P	Section 20.200.880
Photo processing and developing	-	P	P	P	
Printing and publishing	-	P	P	P	
Offices and Financial Services					
Automatic teller machine	P	P	P	P	Section 20.80.200
Business support	-	P	P	P	
Financial institution	P	P	P	P	
Office, general business	P	P	P	P	Section 20.40.110
Payday lending establishment	-	R	R	R	Part 12.5, Chapter 20.80; Section 20.200.875
Public, Quasi-Public and Assembly Uses					
Cemetery	C	C	C	C	

Church/religious assembly	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (publicly operated)	P	P	P	P	
Museums, libraries, parks, playgrounds, or community centers (privately operated)	C	C	C	C	
Residential					
Emergency residential shelter	C	C	C	C	Section 20.80.500
Live/work	-	S	S	S	Section 20.80.740
Mixed use residential/commercial	-	C	C	C	Note 6
Residential care facility for seven or more persons	C	C	C	C	
Residential service facility for seven or more persons	C	C	C	C	
Single room occupancy hotel	-	C	C	C	Part 15, Chapter 20.80
Single room occupancy living unit	-	C	C	C	Part 15, Chapter 20.80
Drive-Through Uses					
Drive-through in conjunction with any use	-	-	C	C	
Recycling Uses					
Reverse vending	A	A	A	A	
Small collection facility	A	A	A	A	
Transportation and Utilities					
Data center	-	-	-	C	
Community television antenna systems	C	C	C	C	
Off-site, alternating use and alternative parking arrangements	S	S	S	S	Section 20.90.200

Parking establishment, off-street	C	C	C	C	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	
Television, radio studios without antenna/dishes	-	-	-	C	
Short term parking lot for uses or events other than on-site	-	-	-	C	Note 7
Wireless communication antenna	C	C	C	C	Section 20.100.1300
Wireless communication antenna, slimline monopole	S	S	S	S	Section 20.80.1900
Wireless communication antenna, building mounted	P	P	P	P	Section 20.80.1910
Electrical Power Generation					
Private electrical power generation facility	C	C	C	C	Note 2
Co-generation facility	S	S	S	S	
Stand-by/backup					
Facilities that do not exceed noise or air standards	A	A	A	P	
Facilities that do exceed noise or air standards	C	C	C	C	
Temporary stand-by/backup	P	P	P	P	
Solar photovoltaic system	P	P	P	P	Section 20.100.610 C.7.
Vehicle Related Uses					
Accessory installation, passenger vehicles and pick-up trucks	-	-	C	P	
Auto dealer, wholesale, no on-site storage	P	P	P	P	
Car wash, detailing	-	-	C	C	
Gas or charge station	-	C	C	P	Note 8, Note 15
Gas or charge station with incidental service and repair	-	C	C	P	Note 9,

					Note 13
Glass sales, installation and tinting	-	-	C	P	Note 13
Leasing (rental) passenger vehicles, pick-up trucks not exceeding twenty-five (25) feet in length, and motorcycles	-	C	C	P	Note 2
Sale, brokerage, or lease, commercial vehicles	-	-	C	C	Note 13
Sale or brokerage, passenger vehicles, pick-up trucks not exceeding twenty-five feet in length, and motorcycles	-	C	S	P	Note 12, Note 13
Sale, vehicle parts	-	C	P	P	Note 11
Tires, batteries, lube, oil change, smog check station, air conditioning servicing of passenger vehicles and pick-up trucks	-	-	C	P	Note 10, Note 13
Historic Reuse					
Historic landmark structure reuse	S	S	S	S	Part 8.5 Chapter 20.80

Notes applicable to all commercial districts:

1. In the CP District, landscaping materials, such as rock, mulch, and sand are limited to prepackaged sales.
2. No on site storage of vehicles permitted in the CP and CN Zoning Districts.
3. Includes public and private colleges and universities, as well as extension programs and business schools.
4. Not a catering facility.
5. No on site storage of vehicles permitted.
6. Mixed use residential/commercial only under approved village plan or in signature project consistent with the general plan.
7. Use must be less than twenty-four hours.
8. No incidental repair or service permitted.
9. Incidental repair includes non-invasive engine service, maintenance and repair, including but not limited to air conditioning service, fuel system service, electrical service, coolant system service, tune-up, fluid exchanges, steering and suspension system service,

- brake system service, transmission adjustment and service, lube, oil change, smog check, diagnostics and vehicle inspections, stock catalytic converters and manifolds, as well as tires, batteries and accessories installation. Does not allow body repair, welding, vehicle restorations, other types of exhaust system repair, the removal of cylinder heads, engines, transmissions/transfer cases and differentials, or painting.
10. Includes non-invasive engine service, maintenance and repair, including but not limited to air conditioning service, carburetor and fuel injection system service, electrical service, radiator coolant system service, and tune-up, fluid exchanges, steering and suspension system service, brake system service, transmission adjustment and service, lube, oil change, and smog check, diagnostics and vehicle inspections, stock catalytic converters and manifolds, as well as tires, batteries and accessories installation. Does not allow body repair, welding, vehicle restorations, other types of exhaust system repair, the removal of cylinder heads, engines, transmissions/transfer cases and differentials, or painting.
 11. No outdoor sales areas or dismantling allowed.
 12. In the CG District, incidental repair of vehicles requires a Special Use Permit. Incidental repair of vehicles is prohibited in all other commercial districts.
 13. All vehicle-related repair, service, and accessory or other installation shall be conducted within a fully enclosed building.
 14. Bail bond establishments shall not be located and are prohibited uses on the ground floors of structures located within the main jail area, as that area is defined in Section 20.80.070 of Chapter 20.80 of this title. Bail bond establishments are allowed as shown on Table 20-90 on other, above-ground floors of structures. All bail bond establishments shall meet all distance requirements specified in Section 20.80.075 of Chapter 20.80 of this title.
 15. Pedestal charging stations that are incidental to a separate primary use, that do not impact on-site or off-site vehicular circulation, and that serve patrons of the primary use on-site are permitted in all commercial zoning districts.
 16. Public schools are subject to the regulations of this title, subject to the provisions of California Government Code Section 53094 for classroom facilities.

SECTION 3. Section 20.40.520 of Chapter 20.40 of Title 20 of the San José Municipal Code is amended to read as follows:

20.40.520 Outdoor uses within 150 feet of residentially zoned property

No use, which in whole or in part, consists of, includes, or involves any outdoor activity or sale or storage of goods, products, merchandise or food outdoors shall occur on any lands if any part of such lands or any part of the lot on which such buildings are located is situated within one hundred fifty (150) feet of residentially zoned property

situated within or outside the city except with a Special Use Permit as provided for in Chapter 20.100, except for the following:

- A. Seasonal sales in accordance with the provisions in Part 14, Chapter 20.80.
- B. Service windows for pedestrians or automatic teller machines for pedestrians both of which are associated with financial institutions.
- C. Cigarettes, ice, candy, food, and soft drinks dispensed from self-service, coin-operated automatic vending machines.
- D. Plant nursery sales.
- E. Outdoor dining incidental to a public eating establishment or a retail establishment that conforms to all of the following criteria:
 - 1. The outdoor dining area is completely separated from residentially zoned property by a non-residential building or by a minimum distance of one hundred (100) feet that includes a public street with a minimum public right-of-way dimension of eighty (80) feet; and
 - 2. The outdoor dining area does not include any equipment to produce any amplified sound; and
 - 3. The outdoor dining area does not operate between the hours of 10:00 p.m. and 6:00 a.m.
- F. Outdoor vending of whole, uncut, fresh fruits and vegetables in conformance with the provisions of Part 10, Chapter 20.80.
- G. Small Certified Farmers' Markets in conformance with the provisions of Part 3.5, Chapter 20.80.

SECTION 4. Section 20.50.100 of Chapter 20.50 of Title 20 of the San José Municipal Code is amended to read as follows:

20.50.100 Allowed uses and permit requirements.

- A. "Permitted" land uses are indicated by a "P" on Table 20-110.
- B. "Permitted" uses which may be approved only on property designated on the Land Use/Transportation Diagram of the General Plan, as amended, with the Combined Industrial/ Commercial or, in the case of hotel/motel establishments, which may also be approved on property designated on the Land Use/Transportation Diagram of the General Plan, as amended, with the preferred hotel site overlay are indicated by a "P^{GP}" on Table 20-110.

- C. "Conditional" uses are indicated by a "C" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a conditional use permit as set forth in Chapter 20.100.

"Conditional" uses which may be approved only on property designated on the land use/transportation diagram of the general plan, as amended, with the combined industrial/ commercial or, in the case of hotel/motel establishments, may also be approved on property designated on the land use/ transportation diagram of the general plan, as amended, with the preferred hotel site overlay are indicated by a "C^{GP}" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a conditional use permit as set forth in Chapter 20.100.

- D. "Special" uses are indicated by a "S" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100.
- E. "Administrative" uses are indicated by an "A" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an administrative permit as set forth in Chapter 20.100.
- F. "Restricted" land uses are indicated by an "R" on Table 20-110. These uses may occur in such designated districts, as an independent use, but only upon issuance of and in full compliance with a valid and effective Zoning Code Verification Certificate as set forth in Chapter 20.100.
- G. Land uses not permitted are indicated by a "-" on Table 20-110. Land uses not listed on Table 20-110 are not permitted.
- H. When the right column of Table 20-110 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San Jose Municipal Code.

Table 20-110 Industrial Districts Land Use Regulations						
Use	Zoning District					Applicable Sections & Notes
	CIC	TEC	IP	LI	HI	

Industry						
Auction	C	C	C ^{GP}	C ^{GP}	-	
Industrial services	-	-	-	P	P	
Laboratory, processing	P	P	P	P	P	
Manufacturing and assembly						
Light	P	P	P	P	-	
Medium	P	P	P	P	P	
Heavy	-	-	-	-	P	
Research and development	P	P	P	-	-	
Catalog and mail order	P	P	P	P	-	
Construction / Corporation yard	-	-	-	S	S	
Establishment for the repair, cleaning of household, commercial or industrial equipment or products	-	-	-	P	P	
Extraction of minerals from the ground, including quarrying	-	-	-	-	C	
Hazardous materials storage facility	-	-	-	C	C	
Hazardous waste facility	-	-	-	-	C	
Junkyard	-	-	-	-	C	
Miniwarehouse/ministorage	-	-	-	P	P	
Outdoor uses or storage, industrial	-	-	-	S	P	Section 20.50.210
Private power generation	C	C	C	C	C	

Stockyard, including slaughter	-	-	-	-	C	
Warehouse/distribution facility	P	P	P	P	P	
Wholesale sale establishment	P	S	S	P	P	
Wineries, breweries	P	P	P	P	P	
Additional Uses						
Any use not set forth in Tables 20-30, 20-50, 20-90	-	-	-	-	C	
Any use without a permanent fully enclosed building on-site	C	C	C	S	S	
Commercial support	-	P	P	-	-	Note 5, Section 20.50.110
Retail sales, goods and merchandise	P	P	-	-	-	Note 5, Section 20.50.110
Retail art studio	P	P	-	-	-	
Alcohol, off-site sales - beer and/or wine only	C	C	-	-	-	Note 5, Section 20.50.110
Alcohol, off-site sales, full range of alcoholic beverages	C	C	-	-	-	Note 5, Section 20.50.110
Alcoholic beverages, off-site sales - beer and/or wine only and incidental to a winery/brewery	C	C	C	C	C	Note 12, Section 20.50.110
Alcoholic beverages, off-site sales – distilled spirits only and incidental to a distillery	C	C	C	C	C	Note 12, Section 20.50.110
Bakery, retail	P	P	-	-	-	Note 5, Section 20.50.110
Certified farmers' market	-	S	S	-	-	Part 3.5, Chapter

						20.80
Certified farmers' market - small	-	P	P	-	-	Part 3.5, Chapter 20.80
Food, beverage, groceries	P	P	-	-	-	Note 5, Section 20.50.110
Nursery, plant	P	P	-	C	C	
Outdoor vending	A	A	-	A	A	Part 10, Chapter 20.80
<u>Outdoor vending - fresh fruits and vegetables</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Part 10, Chapter 20.80</u>
Large format commercial establishment	-	-	C ^{GP}	C ^{GP}	-	
Large format commercial establishment, associated commercial	-	-	C ^{GP}	C ^{GP}	-	Section 20.50.115
Warehouse retail	-	-	C	C	C	Section 20.50.130
Sales, office furniture, industrial equipment, machinery	P	P	-	C	-	
Seasonal sales	P	P	P	P	P	Part 14, Chapter 20.80
Education and Training						
Day care center	C	C	C ^{GP}	C ^{GP}	-	
School, driving (class A & B license)	-	-	-	P	P	
Instructional art studios	P	P	-	-	-	
Instructional art studios, live models	C	C	-	-	-	
Private instruction, personal enrichment	P	P	-	-	-	

School- elementary and secondary (public or private)	C	C	-	-	-	Note 11
School, post secondary	C	C	C	-	-	
School, trade and vocational	C	C	-	C	C	
Entertainment and Recreation Related						
Recreation, commercial / indoor	P	C on lands with a General Plan land use designation of Transit Employment Center; C ^{GP} on lands with other General Plan land use designations	C ^{GP}	C ^{GP}	-	Note 5, Section 20.50.110
Relocated cardroom	C ^{GP}	C ^{GP}	C ^{GP}	C ^{GP}	-	Section 20.80.1155
Performing arts production and rehearsal space, excluding performances	P	C	C	C ^{GP}	-	
Food Services						
Caterer	P	P	-	-	-	
Drinking establishments	C	C	-	-	-	
Drinking establishments interior to a full-service hotel/motel that includes 75 or more guest rooms	P	S if within 150 feet of residentially used or zoned lot; P if not within 150 feet of residentially	P ^{GP}	-	-	Section 20.80.475; Note 13

		used or zoned lot				
Drinking establishment in conjunction with a winery or brewery	C	C	C	C	C	
Public eating establishments	P	P	-	C	C	Note 5, Section 20.50.110 and Section 20.50.113
Outdoor dining, incidental to a public eating establishment	P	S if within 150 feet of residentially used or zoned lot; P if not within 150 feet of residentially used or zoned lot	-	C	C	Note 5, Section 20.50.110 and Section 20.50.113
Health and Veterinary Services						
Animal boarding, indoor	P	P	-	-	-	Note 14
Animal grooming	P	P	-	-	-	Note 14
Emergency ambulance service	C	C ^{GP}	C ^{GP}	C ^{GP}	-	
Hospital/in-patient facility	C	C	C	-	-	Note 6
Medical marijuana collective [USE SUSPENDED]	R	-	-	R	-	Part 9.75, Chapter 20.80
Office, medical	P	P	C	-	-	Note 5, Section 20.50.110
Veterinary clinic	P	P	-	-	-	Note 14
General Services						
Crematory	-	-	-	C ^{GP}	C	Note 7

Mortuary, without funeral services	-	-	-	P	P	
Dry cleaner	P	P	-	-	-	
Hotel / motel	P	P on lands with a General Plan land use designation of Transit Employment Center; P ^{GP} on lands with other designations	C ^{GP}	-	-	Note 13
Laundromat	P	P	-	-	-	
Maintenance and repair, small household appliances	P	P	-	-	-	
Messenger services	P	P	-	-	-	
Personal services	P	P	-	-	-	Note 5, Section 20.50.110
Photo processing and developing	P	P	P	P	P	
Printing and publishing	P	P	P	P	P	
Social service agency	-	C	C	C	C	
Offices and Financial Services						
Automatic teller machine	P	P	P	P	P	Section 20.80.200
Business support	P	P	-	-	-	
Financial institution	P	P	P	C ^{GP}	-	Note 5, Section 20.50.110

Office, general business	P	P	P	-	-	
Office, research and development	P	P	P	-	-	
Public, Quasi-Public and Assembly Uses						
Church / Religious assembly	C	C on lands with a General Plan land use designation of Transit Employment Center; C ^{GP} on lands with other designations	C ^{GP}	C ^{GP}	-	
Residential						
Emergency residential shelter, more than 50 beds	C	C ^{GP}	C ^{GP}	C	-	Section 20.80.500
Emergency residential shelter, 50 beds or fewer	P	C	C ^{GP}	C	-	Section 20.80.500
Living quarters, custodian, caretakers	-	-	-	-	-	Note 1
Drive-Through Use						
Drive-through in conjunction with any use	C	C ^{GP}	C ^{GP}	C ^{GP}	-	
Recycling Uses						
Recycling processing facility	-	C	C	S	S	
Recycling transfer facility	-	C	C	S	S	
Large collection facility	-	-	-	-	P	

Reverse vending	A	A	A	A	A	
Small collection facility	A	A	A	A	A	
Transportation and Utilities						
Common carrier	-	-	-	C	P	
Common carrier depot	S	S	S	S	S	
Community television antenna systems	C	C	C	C	C	
Data center	S	S	S	S	S	
Off-site, alternating and alternative use parking arrangements	S	S	S	S	S	Section 20.90.200
Parking establishment not permitted in Tables 20-30, 20-50 and 20-90	C	C	C	C	C	
Parking establishment, off-street	C	C	C	C	C	
Television, radio studio	C	C	C	C	C	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	C	
Wireless communication antenna	C	C	C	C	C	Section 20.100.1300
Wireless communication antenna	S	S	S	S	S	Section 20.80.1900
Wireless communication antenna, building mounted	P	P	P	P	P	Section 20.80.1910
Electrical Power Generation						
Base load facility	-	-	-	-	C	

Stationary peaking facility	-	-	-	C	C	
Transportable peaking facility	-	-	-	C	C	
Private power generation facility	C	C	C	C	C	
Co-generation facility	S	S	S	S	S	
Stand-by/back-up						
Facilities that do not exceed noise and air standards	P	P	P	P	P	
Facilities that do exceed noise and air standards	C	C	C	C	C	
Temporary stand-by-backup	P	P	P	P	P	
Solar photovoltaic system	P	P	P	P	P	Section 20.100.610 C.7.
Vehicle Related Uses						
Auto dealer, wholesale, no on-site storage	P	P	P	-	-	
Car wash, detailing	C	C	-	-	-	
Gas or charge station, excluding incidental service or repair	P	C	C ^{GP}	C ^{GP}	-	Note 2, Note 8
Gas or charge station with incidental service and repair	P	C	C ^{GP}	C ^{GP}	-	Note 3
Sale, brokerage, or lease (rental) of passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles	C	C	-	C	-	Note 10
Repair and cleaning of vehicles	C	-	-	P	P	Note 4

Sale or lease of commercial trucks, buses, trailers, campers, boats, mobilehomes, construction equipment	C	-	-	C	-	
Sale, vehicle parts	P	P	-	P/S	-	Note 9
Vehicle tow yard	-	-	-	C	S	
Vehicle wrecking, including sales of parts	-	-	-	-	C	
Historic Reuse						
Historic landmark structure reuse	S	S	S	S	S	Part 8.5 Chapter 20.80

Notes:

1. Site must be seven acres or more.
2. No incidental repair or service.
3. Incidental repair includes non-invasive engine service, maintenance and repair, including but not limited to air conditioning service, fuel system service, electrical service, coolant system service, tune-up, fluid exchanges, steering and suspension system service, brake system service, transmission adjustment and service, lube, oil change, smog check, diagnostics and vehicle inspections, stock catalytic converters and manifolds, as well as tires, batteries and accessories installation. Does not allow body repair, welding, vehicle restorations, other types of exhaust system repair, the removal of cylinder heads, engines, transmissions/transfer cases and differentials, or painting.
4. All vehicle-related repair, service, and accessory or other installation, excepting the cleaning of vehicles, shall be conducted within a fully enclosed building.
5. Retail; recreation, commercial/indoor establishments; public eating establishments; outdoor dining, incidental to a public eating establishment; financial institutions; medical clinics; medical offices; and personal service establishments are permitted in the IP District subject to the limitations of commercial support use, Section 20.50.110. Public eating establishments in the LI or HI districts are limited to a maximum of 650 gross square feet in size.
6. Refer to the General Plan for criteria to determine if the use is permissible at the proposed location.
7. Crematories shall be separated by at least 500 linear feet from residential uses, schools, and day care centers, which distance(s) shall be measured from the nearest

- points of the parcel boundary on which the crematory is proposed and the parcel boundary on which the residential, school or day care center use is located.
8. Pedestal charging stations that are incidental to a separate primary use, that do not impact on-site or off-site vehicular circulation, and that serve patrons of the primary use on-site are permitted in all industrial zoning districts.
 9. Vehicle parts sales are permitted in the LI District when the total floor area dedicated to retail display and open to the public occupies no more than 15% of the gross floor area of the individual tenant space. Vehicle parts sales establishments that exceed 15% of the gross floor area of the individual tenant space are subject to a special use permit.
 10. Any incidental vehicle-related repair, service, and accessory or other installation, excepting the cleaning of vehicles, shall be conducted within a fully enclosed building.
 11. Public schools are subject to the regulations of this title, subject to the provisions of California Government Code Section 53094 for classroom facilities.
 12. Off-sale of Alcoholic Beverages. The total square footage of alcoholic beverages on display in a retail area and the total square footage of retail floor area in which alcoholic beverages are displayed for sale shall be the lesser of the following:
 - a. Two hundred fifty (250) gross square feet; or
 - b. Five (5) percent of the winery's, brewery's, or distillery's entire gross floor area; and any and all alcoholic beverages made available for retail sale shall be limited only to those alcoholic beverages manufactured and produced on-site.
 13. At least two hundred (200) rooms and four (4) or more stories in height are required for hotels located in the TEC Transit Employment Center Zoning District.
 14. In the TEC Zoning District, all uses involving any type of care for animals, including but not limited to grooming, boarding, and medical care, must be conducted wholly inside a building.

SECTION 5. Section 20.70.100 of Chapter 20.70 of Title 20 of the San José Municipal Code is amended to read as follows:

20.70.100 Allowed uses and permit requirements.

- A. "Permitted" land uses are indicated by a "P" on Table 20-140.
- B. "Conditional" uses requiring planning commission approval as the initial decision-making body are indicated by a "C" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of

and in compliance with a conditional use permit approved by the planning commission, or city council on appeal, as set forth in Chapter 20.100.

C. "Conditional" uses requiring city council approval as the initial decision-making body are indicated by a "CC" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a conditional use permit approved by the city council as set forth in Chapter 20.100. Applications for these uses shall first be considered by the planning commission at a public hearing of the commission for the commission's report and recommendation on the application to the city council pursuant to the processes set forth in Chapter 20.100.

D. "Special" uses are indicated by a "S" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100.

E. "Administrative" uses are indicated by an "A" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an administrative permit as set forth in Chapter 20.100.

F. "Restricted" land uses are indicated by an "R" on Table 20-90. These uses may occur in such designated districts, as an independent use, but only upon issuance of and in full compliance with a valid and effective Zoning Code Verification Certificate as set forth in Chapter 20.100.

G. Land uses not permitted are indicated by a "-" on Table 20-140. Land uses not listed on Table 20-140 are not permitted.

H. The column of Table 20-140, under the heading "Additional Use Regulations for the DG Area", identifies further regulations on the uses of ground-floor building space within a portion of the DC Zoning District. The portion of the DC District included in the DG Area is described in Section 20.70.520. These regulations apply to ground-floor building space, defined as Downtown Ground-Floor Space ("DG Area"), in Section 20.70.520 of this Chapter. If there are no additional regulations on properties located in the DG Area noted in this column, the use regulations for the DG Area remain those regulations of the DC Zoning District.

I. The "Parking" column of Table 20-140 establishes the required parking. The amount of parking may not be increased or decreased unless modified by the Director as set forth in Sections 20.70.320 and 20.70.330 of this Chapter.

J. When the right column of Table 20-140 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote apply to the use. In

addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

Table 20-140 Downtown Districts Land Use Regulations					
Use	Zoning District		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to all Downtown Districts
Offices and Financial Services					
Automatic teller machine	P	P		No parking	Section 20.80.200
Business support	P	P	S, Notes k and n	No parking	
Financial institution	P	P	S, Note n	2.5 per 1,000 sq. ft.*	
Financial services	P	P	S, Notes m and n	No parking	
Offices, business and administrative	P	P	S, Notes i and n	2.5 per 1,000 sq. ft.*	Section 20.70.110
Payday lending establishment	R	R			Part 12.5, Chapter 20.80; Section 20.200.875
Research and development	P	P	-	2.5 per 1,000 sq. ft.*	Note 1
General Retail					
Alcohol, off-site sales - beer and/or wine only	C	C		No parking	Section 20.80.900

Alcohol, off-site sales - full range of alcoholic beverages	C	C		No parking	Section 20.80.900
Auction	S	-	-	No parking	
Certified farmers' market	S	S		No parking	Part 3.5, Chapter 20.80
Certified farmers' market - small	P	P		No parking	Part 3.5, Chapter 20.80
Food, beverage, groceries	P	P		No parking	
Open air sales establishments and areas	S	S		No parking	
Outdoor vending	S	S		No parking	Part 10, Chapter 20.80
<u>Outdoor vending - fresh fruits and vegetables</u>	<u>P</u>	<u>P</u>		<u>No parking</u>	<u>Part 10, Chapter 20.80</u>
Pawn shop, pawn broker	C	C	Note b	No parking	
Retail sales, goods and merchandise	P	P	Note a	No parking	
Seasonal sales	P	P		No parking	Part 14, Chapter 20.80
Education and Training					
Day care center	P	P	S, Notes c and n	No parking	

Post-secondary school	P	P	-	1 per 360 sq. ft.	
Trade school	P	P	-	1 per 360 sq. ft.	
School, elementary (grades K-8)	C	C	-	1 per teacher and employee	
Personal enrichment, instructional art	P	P	-, Note d	1 per 360 sq. ft.	
School, elementary (grades K - 8)	C	C	-	1 per teacher and employee	
High school (grades 9 - 12)	C	C	-	.75 per teacher and employee and 1 per each 10 students	
Entertainment and Recreation Related					
Amusement arcade	C	-	Note e	No parking	
Movie theater	P	P		No parking	
Recreation commercial / indoor	P	P		No parking	
Poolroom	S	-		No parking	
Private club or lodge	P	P	-	1 per 360 sq. ft.	
Food Services					
Banquet facility	P	P	Note f	No parking required	
Caterer	P	P	C, Note f	No parking	

Drinking establishments	C	C		No parking	
Drinking establishments with an approved maximum occupancy load of over 250 persons and that operate between 12:00 midnight and 6:00 a.m.	CC	-		No parking	Note 7
Drinking establishments interior to a full-service hotel/motel with 75 or more guest rooms	P	P		No parking	Section 20.80.475
Public eating establishments	P	P		No parking	<u>Note 9</u>
Wineries, breweries	C	C		No parking	
Health and Veterinary Services					
Animal grooming	P	P	-	No parking	
Animal boarding, indoor	P	P	-	No parking	
Emergency ambulance service	C	-	-	No parking	
Hospital/ in-patient medical facility	C	-	-	1.5 per doctor	
Medical or dental clinic /	P	P	-	1.5 per doctor	

out-patient facility					
Veterinarian	P	P	-	1.5 per doctor	
General Services					
Bed and breakfast	P	P	S, Note I	.35 per room	Part 2, Chapter 20.80
Hotel/motel	P	P	-, Note I	.35 per room	
Maintenance and repair of household appliances	P	P	-	No parking	
Mortuary and funeral services	C	C	-	.75 per employee and vehicle	
Personal services	P	P	Note g	No parking	-
Printing and publishing	P	P	Note h	No parking	
Public, Quasi-Public and Assembly Uses					
Auditorium	C	-	-	No parking	
Cemetery	C	C	-	No parking	
Church/religious assembly	P	P		No parking	
Information center	P	P		No parking	
Museums, libraries	P	-	P	No parking	
Parks, playgrounds, or community centers	P	P	Note j	No parking	

Residential					
Residential shelter	C	-	-	1 per 4 beds, 2.5 per 1,000 sq. ft.*	
Live/work	P	S		1.5 per unit	Section 20.70.120
Residential multiple dwelling	P	P	-	1 per unit	
Residential care facility for seven or more persons	C	C	-	.75 per employee	
Residential services facility for seven or more persons	C	C	-	.75 per employee	
Single room occupancy living unit	S	S	-	.6 per room	Part 15, Chapter 20.80
Single room occupancy living unit	S	S	-	.6 per room	Part 15, Chapter 20.80
Single room occupancy hotel	S	S	-	.6 per room	Part 15, Chapter 20.80
Residential Accessory Uses					
Accessory buildings and structures	P	P	-	No parking	Note 2
Recycling Uses					
Reverse vending	S	S	-	No parking	Note 3
Small collection	S	S	-	No parking	Note 3

facility					
Transportation and Communication					
Community television antenna systems	C	-	-	No parking	
Off-site and alternating use parking arrangements	P	P	-	N/A	Section 20.90.200
Parking establishment, off-street	P	P	-	N/A	
Private electrical power generation facility	C	C	-	1 for each vehicle used in the operation of such facility	
Standby generators that do not exceed noise or air standards	A	A	-	N/A	
Temporary stand-by / backup generators	P	P	-	N/A	
Short term parking lot for uses or events other than on-site	S	S		N/A	
Radio and television studios	P	-	Note n	No parking	
Wireless communication antenna	S	-	-	No parking	Section 20.80.1900

Wireless communication antenna, building mounted	P	-	-	No parking	Section 20.80.1900
Electrical Power Generation					
Solar photovoltaic system	P	P	-	No parking	Section 20.100.610 C.7.
Vehicle Related Uses					
Accessory installation for cars and passenger trucks	P	-	-	No parking	
Car wash, detailing	P	-	-	No parking	
Gas or charge station	P	-	-	No parking	Note 3, Note 8
Gas or charge station with incidental service and repair	P	-	-	No parking	Note 3
Sale and lease, vehicles and equipment (less than one ton)	P	-	-	1.5 per employee	Note 4
Tires, batteries, accessories, lube, oil change, smog check station, air conditioning	P	-	-	2 per bay or .75 per employee	Note 5
Sale, vehicle parts, new	P	-	-	No parking required	

Historic Reuse					
Historic landmark structure reuse	S	S		Section 20.90.220E.	Part 8.5 Chapter 20.80

Notes:

Notes applicable to the DG Area only:

- a. Excluding second-hand stores not dealing primarily in antiques, artworks, or vintage clothing.
- b. Only as a use incidental to a retail jewelry store, otherwise, not permitted.
- c. Only as a use incidental to existing on-site office use, otherwise not permitted.
- d. Culinary/art school with public classes and public demonstrations allowed, includes such areas as dance, music, martial arts, and fine arts.
- e. Allowed only as an incidental use to other allowed recreation uses.
- f. Only as a use incidental to restaurant, grocery or bakery uses for primarily on-site sales, otherwise not permitted.
- g. Excludes check-cashing services, photography studios, weight loss centers, interior decorating, and bail bond services.
- h. Only if dedicated primarily to on-site retail customer copy services, otherwise not permitted.
- i. Exception for travel agencies and real estate agencies which are the only permitted uses.
- j. Community centers are not allowed.
- k. Exception for copy shops and mail centers which are the only permitted uses.
- l. Use of ground floor to be primarily dedicated to customer-related public services.
- m. Includes financial retail services such as payroll advances, foreign currency exchange, debt card services and related financial services products but excludes check cashing except as an ancillary use.

- n. In order to be a permitted use, the space to be occupied shall have been vacant on January 1, 2012, the size of the space of such use shall be limited in size to a total maximum area of no greater than twenty thousand (20,000), square feet, and the space shall not be located within a corner tenant space that is directly adjacent to the intersection of two (2) public streets. Any use that does not meet all of the criteria specified above in this note may be allowed with a Special Use permit, and a Special Use Permit is and shall be required.

Notes applicable to Downtown Core Primary Commercial (DC) Zoning District, including DG Area:

1. Excludes manufacturing uses.
2. No lot may be used solely for an accessory structure or building.
3. Incidental repair includes air conditioning service, carburetor and fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting.
4. All activity must be conducted indoors.
5. Non-engine and exhaust related service and repair allowed as incidental use.
6. Limited to instrumental and vocal music and readings. Also, notwithstanding the provisions of Section 20.200.940B., incidental instrumental and vocal music shall be allowed between the hours of 6:00 a.m. and 12:00 a.m.
7. Maximum occupancy load shall be that maximum occupancy load determined by the City Fire Marshal.
8. Pedestal charging stations that are incidental to a separate primary use, that do not impact on-site or off-site vehicular circulation, and that serve patrons of the primary use on-site are permitted in all Downtown Zoning districts.

*Under the Parking Management Plan, October 2001, the Code may be changed to reduce the parking allotments for these uses. The reduction would be to two and one-half (2 ½) spaces per one thousand (1,000) square feet when BART is opened.

Fifteen (15) percent of total parking requirement must be provided off-site.

9. Includes onsite outdoor dining area(s).

SECTION 6. Section 20.75.200 of Chapter 20.75 of Title 20 of the San José Municipal Code is amended to read as follows:

20.75.200 Allowed uses and permit requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-156.
- B. "Conditional" uses are indicated by a "C" on Table 20-156. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a conditional use permit as set forth in Chapter 20.100.
- C. "Special" uses are indicated by a "S" on Table 20-156. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100.
- D. "Administrative" uses are indicated by an "A" on Table 20-156. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an administrative permit as set forth in Chapter 20.100.
- E. Land uses not permitted are indicated by a "-" on Table 20-156. Land uses not listed on Table 20-156 are not permitted.
- F. When the right column of Table 20-156 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote applies to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

Table 20-156 Pedestrian Oriented Districts Land Use Regulations					
Use	Main Street Zoning Districts				Applicable Sections & Notes
	MS-G			MS-C	
	Ground Floor Commercial Frontage	Residential Street Frontage	All Other		
General Retail					
Retail sales, goods and merchandise	P	-	P	P	

Alcohol, off-site sales - beer and/or wine only	C	-	C	C	Section 20.80.900
Alcohol, off-site sales, full range of alcoholic beverages	C	-	C	C	Section 20.80.900
Bakery, retail	P	-	P	P	
<u>Certified farmers' market</u>	<u>S</u>	=	<u>S</u>	<u>S</u>	<u>Part 3.5, Chapter 20.80;</u>
<u>Certified farmers' market - small</u>	<u>P</u>	=	<u>P</u>	<u>P</u>	<u>Part 3.5, Chapter 20.80;</u>
Food, beverage, groceries	P	-	P	P	
<u>Neighborhood agriculture</u>	=	<u>P</u>	=	=	<u>Part 9, Chapter 20.80</u>
Nursery, plant	-	-	P	P	Note 1
Outdoor vending	A	-	A	A	Part 10, Chapter 20.80
<u>Outdoor vending - fresh fruits and vegetables</u>	<u>P</u>	=	<u>P</u>	<u>P</u>	<u>Part 10, Chapter 20.80</u>
Pawn shop/broker	C	-	C	C	See Title 6
Seasonal sales	P	-	P	P	Part 14, Chapter 20.80
Retail art studio	P	-	P	P	Part 13.7, Chapter 20.80
Education and Training					
Child day care center located on an existing school site or as an incident to an on-site church/religious assembly use involving no building additions or changes to the	-	-	P	P	

site					
Day care center	C	-	C	C	
Instructional art studios	P	-	P	P	
Instructional art studios, with live models	C	-	C	C	
Private instruction, personal enrichment	P	-	P	P	
School-elementary and secondary (public)	P	-	P	P	
School-elementary and secondary (private)	C	-	C	C	
School, driving (class C & M license)	P	-	P	P	Note 2
School, post secondary	P	-	P	P	Note 3
School, trade and vocational	C	-	C	C	
Entertainment and Recreation Related					
Arcade, amusement	C	-	C	C	
Dancehall	C	-	C	C	
Poolroom/billiards establishment	C	-	C	C	
Private club or lodge	C	-	C	C	
Recreation, commercial (indoor)	P	-	P	P	
Recreation, commercial (outdoor)	-	-	C	C	

Relocated cardroom	-	-	-	-	
Theatre, indoor	C	-	C	C	
Theatre, outdoor	-	-	C	C	
Assembly	C	-	C	C	
Food Services					
Banquet facility	C	-	C	C	
Caterer	P	-	P	P	Note 4
Drinking establishments	C	-	C	C	
Drinking establishment interior to a full-service hotel/motel with 75 or more guest rooms	P	-	P	P	Section 20.80.475
Public eating establishments	P	-	P	P	
Outdoor dining, incidental to a public eating establishment or a retail establishment	P	-	P	P	Section 20.75.320
Wineries, breweries	C	-	C	C	
Health and veterinary services					
Animal boarding, indoor	-	-	P	P	Note 5
Animal grooming	P	-	P	P	Note 5
Emergency ambulance service	-	-	C	C	
Hospital/in-patient facility	C	-	C	C	
Medical clinic/out-patient	P	-	P	P	

facility					
Office, medical	P	-	P	P	
Veterinary clinic	P	-	P	P	
General Services					
Bed and breakfast	-	-	P	P	Part 2, Chapter 20.80
Dry cleaner	P	-	P	P	
Hotel/motel	-	-	P	P	
Laundromat	P	-	P	P	
Maintenance and repair, small household appliances	P	-	P	P	
Messenger services	P	-	P	P	Note 2
Mortuary and funeral services	P	-	P	P	
Personal services	P	-	P	P	Section 20.200.880
Photo processing and developing	P	-	P	P	
Printing and publishing	P	-	P	P	
Offices and Financial Services					
Automatic teller machine	P	-	P	P	Section 20.80.200
Business support	P	-	P	P	
Financial institution	P	-	P	P	

Office, general business	P	-	P	P	
Public, Quasi-Public and Assembly Uses					
Cemetery	-	-	-	-	
Church/religious assembly	C	-	C	C	
Museums, libraries, parks, playgrounds, or community centers (publicly operated)	P	-	P	P	
Museums, libraries, parks, playgrounds, or community centers (privately operated)	C	-	C	C	
Residential/mixed use					
Multiple dwellings	-	C	C	C	Section 20.75.210
Residential accessory uses including, recreation facilities, mail rooms, laundry facilities, storage and other similar facilities	-	P	P	P	Section 20.75.210
Home occupation	-	P	P	P	Part 9, Chapter 20.80
Mixed use/ground floor commercial with residential above	C	-	C	C	Section 20.75.210
Emergency residential shelter	-	-	-	-	Section 20.80.500
Live/work	C	-	S	-	Part 9.5, Chapter 20.80 & Section 20.75.210
Residential care facility, six	-	P	P	P	Section

or fewer persons					20.75.210
Residential service facility, six or fewer persons	-	P	P	P	Section 20.75.210
Residential care facility for seven or more persons	-	C	C	C	Section 20.75.210
Residential service facility for seven or more persons	-	C	C	C	Section 20.75.210
Single room occupancy hotel	-	-	C	C	Part 15, Chapter 20.80
Single room occupancy living unit	-	-	C	C	Part 15, Chapter 20.80; Section 20.75.210
Drive-Through Uses					
Drive-through in conjunction with any use	-	-	C	C	Section 20.75.330
Recycling Uses					
Reverse vending	A	P	A	A	
Small collection facility	A	-	A	A	
Transportation and Utilities					
Data center	-	-	-	-	
Community television antenna systems	-	-	C	C	
Off-site, alternating use and alternative parking arrangements	S	S	S	S	Section 20.90.200
Parking establishment, off-street	C	-	C	C	Section 20.75.130.B.3

Utility structures	A	A	A	A	Part 19, Chapter 20.80 and Section 20.75.120.A.4
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	
Television, radio studios without antenna/dishes	-	-	-	-	
Short term parking lot for uses or events other than on-site	-	-	C	C	Note 6
Wireless communication antenna	-	-	C	C	Section 20.100.1300
Wireless communication antenna, slimline monopole	-	-	S	S	Section 20.80.1900
Wireless communication antenna, building mounted	P	P	P	P	Section 20.80.1910
Electrical Power Generation					
Private electrical power generation facility	-	-	C	C	Note 2
Co-generation facility	S	-	S	S	
Stand-by/backup					
Facilities that do not exceed noise or air standards	A	S	A	A	
Facilities that do exceed noise or air standards	C	-	C	C	
Temporary stand-by/backup	P	-	P	P	

Solar photovoltaic system	P	P	P	P	Section 20.100.610C.7.
Vehicle Related Uses					
Accessory installation, passenger vehicles and pick-up trucks, indoors	P	-	P	P	
Auto broker, wholesale, no on-site storage	P	-	P	P	
Car wash, detailing	-	-	-	-	
Gas or charge station	-	-	-	-	
Gas or charge station with incidental service and repair	-	-	-	-	
Glass sales, installation and tinting	P	-	P	P	Note 10
Sale or lease, commercial vehicles	-	-	-	-	Note 10
Sale or lease passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles, indoors	S	-	S	S	Note 9, Note 10
Rental passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles	S	-	S	S	Note 2
Sale, vehicle parts	S	-	S	S	Note 8
Tires, batteries, lube, oil change, smog check station, air conditioning servicing of passenger vehicles and pick-up trucks	S	-	S	S	Note 7, Note 10

Historic Reuse					
Historic landmark structure reuse	S	C	S	S	Part 8.5 Chapter 20.80

Notes:

- (1) Landscaping materials, such as rock, mulch, and sand are limited to prepackaged sales.
- (2) No on site storage of vehicles permitted.
- (3) Includes public and private colleges and universities, as well as extension programs and business schools.
- (4) Not a catering facility.
- (5) All uses involving any type of care for animals, including but not limited to grooming, boarding, or medical care must be conducted wholly inside a building.
- (6) Use must be less than 24 hours.
- (7) Non-engine and exhaust related service and repair allowed as incidental.
- (8) No outdoor sales areas or dismantling allowed.
- (9) Incidental repair of vehicles is prohibited.
- (10) All vehicle-related repair, service, and accessory or other installation shall be conducted within a fully enclosed building.
- (11) Pedestal charging stations that are incidental to a separate primary use, that do not impact on-site or off-site vehicular circulation, and that serve patrons or residents of the primary use on-site are permitted in all pedestrian oriented zoning districts.

SECTION 7. Section 20.75.320 of Chapter 20.75 of Title 20 of the San José Municipal Code is amended to read as follows:

20.75.320 Outdoor uses within one hundred fifty (150) feet of residentially zoned property

No use, which in whole or in part, consists of, includes, or involves any outdoor activity or sale or storage of goods, products, merchandise or food outdoors shall occur on any lands if any part of such lands or any part of the lot on which such buildings are located is situated within one hundred fifty (150) feet of residentially zoned property situated within or outside the city except with a special use permit as provided for in Chapter 20.100, except for the following:

- A. Seasonal sales in accordance with the provisions in Part 14, Chapter 20.80.
- B. Service windows for pedestrians or automatic teller machines for pedestrians, both of which are associated with financial institutions.
- C. Outdoor retail displays located in the front setback that are associated with a commercial use on the property.
- D. Plant nursery sales.
- E. Outdoor dining incidental to a public eating establishment or a retail establishment that conforms to all of the following criteria:
 - 1. The outdoor dining area is located within one hundred (100) feet of the Main Street or is completely separated from any property located in a residential zoning district by a minimum distance of fifty (50) feet; and
 - 2. The outdoor dining area does not include any equipment to produce any amplified sound; and
 - 3. The outdoor dining area does not operate between the hours of 12:00 midnight and 6:00 a.m.; and
 - 4. The outdoor dining area is operated in a manner that does not create a private or public nuisance.
- F. Outdoor vending of whole, uncut, fresh fruits and vegetables in conformance with Part 10, Chapter 20.80.
- G. Small Certified Farmers' Markets that are in conformance with Part 3.5, Chapter 20.80.

SECTION 8. Section 20.80.810 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.810 Administrative permit required

- A. No person shall place or operate or allow or suffer the placement or operation of any stationary vending facility which serves members of the public outdoors on any privately owned parcel or lot except in compliance with an administrative permit issued pursuant to this title. The application for such administrative permit may be filed by the operator of the vending facility and shall be countersigned by the owner of the subject lot or parcel, or by the authorized agent of the owner, pursuant to the requirements of Chapter 20.100.
- B. A stationary vending facility is a vending facility which remains or operates on any single parcel or lot for more than a total of ~~one-half~~ two (2) hours in any twenty-four-hour period.
- C. An administrative permit is required for each individual stationary vending facility.

SECTION 9. Section 20.80.820 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.820 Exception - Administrative permit

- A. Nothing in this Part shall regulate or prohibit the following uses:
 - 1. The seasonal sale of Halloween pumpkins and Christmas trees and associated greenery pursuant to this Title.
 - 2. The vending of flowers and associated greenery from an approved location pursuant to Sections 6.30.020 through 6.30.060 of Title 6.
 - 3. The peddling of any product from an approved location within the sidewalk portion of a public street pursuant to Chapter 6.54 of Title 6.
 - 4. The placement or maintenance of a newsrack within the public right-of-way pursuant to Chapter 13.18 of Title 13.
 - 5. The vending of beverages, goods, wares, merchandise or services for the use of an on-site business when covered by other provisions in this title.
- B. Notwithstanding the provisions of this Part, no Administrative Permit shall be required for the placement or operation of a vending facility which solely involves the vending of whole, uncut, fresh fruits and vegetables and that meets and remains in full compliance with all of the following location and operational requirements:

1. The vendor shall attend the vending facility at all times.
2. The vending facility shall operate only on a site with an existing Fixed-base Host in operation on the site.
3. All operations shall fully comply with all Federal, State and local laws, regulations and guidelines including without limitation those applicable to the vending of fresh fruits and vegetables, including without limitation the California Health and Safety Code, the California Food and Agricultural Code, and all regulations and guidelines promulgated by the State of California and the County of Santa Clara thereunder, as the same may be amended from time to time.
4. All activities, and the duration of those activities, shall first have been approved and authorized in writing by the owner of the real property on which those activities are planned to occur. The vendor shall have this written authorization available onsite and shall present it to the City upon the City's request.
5. The vendor shall completely remove all equipment, merchandise and other materials, including without limitation waste materials, from the site upon the conclusion of the vending activities, excepting such interior storage of equipment, merchandise or materials as may be allowed on the site with the permission of the owner or operator of the site.
6. The hours of operation of a vending facility shall be limited to the hours of operation of the fixed-base businesses on the Fixed-base Host site; however, the vending facility shall not operate, including any setup or breakdown activities, between the hours of 9:00 p.m. and 7:00 a.m. During hours in which the Fixed-base Host businesses are closed, the vending facility shall be removed from the parcel or lot on which it operates, or shall be stored indoors.
7. The vending facility shall be placed or operated only on paved surfaces and not on landscaped areas, nor shall the vending facility adversely impact any landscaping or landscaped areas.
8. The vendor shall not offer for sale or otherwise distribute any products other than whole, uncut, fresh fruit and vegetables.
9. Each vendor shall not use amplified sound for any purpose.
10. The vending facility or activities shall not obstruct the safe flow of vehicular or pedestrian traffic on or around the site.
11. The vending facility shall not occupy or obstruct more than two (2) parking spaces required by this Title for the operation of any other concurrent use.

12. The maximum dimensions of the vending facility shall be as follows:
 - a. The maximum height of any portion of each vending facility, including any folding or collapsible appendage, shall not exceed ten (10) feet.
 - b. The maximum width of each vending facility or cart, including any folding or collapsible appendage, shall not exceed ten (10) feet.
 - c. The maximum length of each vending facility or cart, including any folding or collapsible appendage, shall not exceed twenty-four (24) feet.
13. The vending facility shall not be placed on or operate within the boundaries of a hypothetical triangular area described by the point of intersection of the curb-line extensions of perpendicular or nearly perpendicular streets, and a line joining two points thirty (30) feet from that point of intersection, measured along those curb-lines.
14. The vending facility shall not be placed or operate less than one hundred (100) feet from a freeway on or off ramp.
15. The vending facility shall not be placed or operate less than twenty (20) feet from a driveway curb cut.
16. The vending facility shall be placed or operate within one hundred (100) feet of a residentially used lot as measured from nearest point of vending facility to nearest point of the residentially used lot.
17. No vending facility shall be placed within or operate from a structure or stand which is attached to or bears directly upon or is supported by the surface of the site. Vending facilities shall operate exclusively from vehicles or carts or other conveyances which are fully mobile and have operational wheels in place at all times. Vending facilities shall not connect to temporary or permanent on-site water, gas, electricity, telephone or cable sources.
18. Vending facilities shall not be located less than fifteen (15) feet from a parcel or lot line or a public right-of-way.
19. The vendor shall not place or utilize displays of fruits or vegetables that are detached from the vending facility or visible offsite.
20. All signs used in conjunction with any vending facility shall comply with the requirements of Title 23 of this Code and with the following requirements:
 - a. Free-standing signs shall not be allowed. All signs shall be mounted or attached to the exterior surfaces of the vending facility and shall not extend beyond the top, bottom, or side lines of the exterior surface to which it is mounted or attached. The dimensions of mounted or attached signs shall be included in measuring and calculating the maximum height.

- width and length of a vending facility under Section 20.80.870.
- b. No sign shall revolve, rotate, move or create the illusion of movement, rotation or revolution, or have any visible moving, revolving or rotating surface parts.
 - c. No sign shall be illuminated, directly or indirectly; but this restriction does not preclude the incidental illumination of such signs by service lighting needed in the conduct of nighttime operations.
 - d. No signs shall emit or broadcast any sound, outcry, or noise.
21. The vendor shall maintain the vending facility and the area around the vending facility in a clean and orderly manner that does not create a public or private nuisance. For purposes of this Part, a nuisance shall mean any act or omission which obstructs or causes substantial inconvenience or damage to the public or any member thereof, in the course of, or by the manner of, the exercise of rights created by this Title.
22. Each vending facility shall display in a manner legible and visible to its clientele:
- a. The name and phone number of the vendor operating the vending facility;
 - b. The number of the City business license issued to the vending facility; and
 - c. The property owner's name and phone number.
23. Each vendor shall have secured with the property owner of the site on which the vendor plans to operate, and prior to the commencement of any operation of the vendor, provision for all of the following services in a manner that comports with State and local laws and regulations, as the same may be amended from time to time:
- a. Refuse disposal and sufficient trash and recycling receptacles within the area of the vending;
 - b. Litter removal within three hundred (300) feet of the boundaries of the vending facility; and
 - c. Access to adequate sanitary facilities, including restrooms and/or portable sinks and toilets.

SECTION 9. Section 20.200.400 of Chapter 20.200 of Title 20 of the San José Municipal Code is renumbered as Section 20.200.410.

SECTION 10. Section 20.200.410 of Chapter 20.200 of Title 20 of the San José Municipal Code is renumbered as Section 20.200.400.

PASSED FOR PUBLICATION of title this day of 2013, by the follow vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

TONI J. TABER, CMC
Acting City Clerk

Outdoor Vending on Private Property – Existing and Proposed Regulations						
	Purpose	Duration of Outdoor Vending with Fixed Base Host of all products without Administrative Permit	Eligible Zoning Districts	Setback from Residential And Distance between Vendors	Maximum Size of Facility	Permit Duration
Existing	To maintain land use compatibility, appearance, and safety.	½ hour a day	With AP: CP, CN, CG, CIC, TEC, LI, HI, MS-G except residential frontage, and MS-C. With SUP: DC & DC-NT.	With an AP no vending facility shall be placed or operate within one-hundred fifty (150) feet of a residence. No vending facility shall operate within 500 feet of another vending facility operating on private property.	Height: 10 ft. Width: 10 ft. Length: 24 ft.	Initial AP term up to 1 year. Renewal term up to 3 years.
Proposed provisions for Fresh Whole Fruits and Vegetables	To facilitate access to healthful food in underserved areas of San Jose	The hours of operation of a vending facility shall be limited to the hours of operation of the fixed-base businesses on the Fixed-base Host site; however, each vendor shall not operate, including any setup or breakdown activities, between the hours of 9:00 p.m. and 7:00 a.m.	Permitted in CO, CP, CN, CG, CIC, TEC, IP, LI, HI; DC & DC-NT1. Permitted in MS-G except residential frontage. Permitted in MS-C. Permitted in all Residential Zoning Districts on sites used for nonresidential institutional uses only and for no more than 2 hours a day per vendor and no more than 4 hours a day per site.	No vending facility shall be placed or operate within one hundred (100) feet of a residentially used lot as measured from nearest point of vending facility to nearest point of residentially used lot.	Height: 10 ft. Width: 10 ft. Length: 24 ft.	No Planning permit required.
Proposed provisions for other products	To facilitate compliance with Zoning Code by reducing the annual cost of permit and providing more flexibility in regulations.	2 hours a day	No change to existing.	No change to existing.	No change to existing.	Initial AP term up to 3 years. Renewal term up to 5 years.
						Supports economic development of small business. Can increase compliance and better maintained facilities.
						Low cost of entry for vendor to provide fresh whole fruits and vegetables through Outdoor Vending with Fixed-base Host on private lots in the City of San Jose. Improved access to healthful food in the City.
						Status quo. There is a lack of permit obtainment.

Glossary

- AP-Administrative Permit** – A land use permit for small-scale operations that may be issued by the Planning Director without a public hearing.
- CG-Commercial General Zoning District** – allows for a full range of retail and commercial uses with a local or regional market. Development is expected to be auto-accommodating and includes larger commercial centers as well as regional malls.
- CIC-Combined Industrial/Commercial Zoning District** – allows for a broad range of commercial uses with a local or regional market, including big box retail, and a narrower range of industrial uses, primarily industrial park in nature, but including some low-intensity light industrial uses. CN-Commercial Neighborhood Zoning District – includes neighborhood centers, multi-tenant commercial development along city connector and main streets, and small corner commercial establishments.
- CO-Commercial Office Zoning District** – a district in or near residential areas or between residential and commercial areas. This district is intended to be a low-intensity office zone that allows for a scale of offices in or adjacent to residential neighborhoods. Larger scale office development can be permitted upon approval of the planning commission, or city council on appeal, through the conditional use permit process.
- CP-Commercial Pedestrian Zoning District** – intended to support pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods.
- DC-Downtown Primary Commercial Zoning District** – a district in the Downtown that allows wholly commercial, wholly multi-family residential, or mixed-use development.
- DC-NT1 Downtown Neighborhood Transition 1 Zoning District** – a district within the Downtown that allows wholly commercial, residential, or mixed-use development that is less intensive than the DC-Downtown Primary Commercial Zoning District.
- Fixed-base Host** – any permitted use, other than a residential use, located within a permitted building or structure on the same parcel or lot and that shares parking, sanitary facilities, trash disposal and other support facilities with a vending facility or certified farmers' market
- Institutional uses** – school sites, library sites, community center sites, or church/religious assembly sites.
- HI-Heavy Industrial Zoning District** – intended for industrial uses with nuisance or hazardous characteristics which for reasons of health, safety, environmental effects, or general welfare are best segregated from other uses.
- LJ-Light Industrial Zoning District** – intended for a wide variety of industrial uses and excludes uses with unmitigated hazardous or nuisance effects.
- MS-C Main Street Commercial Zoning District** – intended to provide a concentration of primarily commercial uses within a pedestrian-oriented design, and allows a mix of commercial and residential uses only where such uses can be integrated on a large site in a pedestrian-oriented design that maximizes commercial opportunities.
- MS-G Main Street Ground Floor Commercial Zoning District** – intended to provide a mix of commercial and residential uses integrated in a pedestrian-oriented design with a focus on active commercial uses at the ground level along the main street frontage.
- Outdoor Vending Facility** – any equipment, apparatus, trailer, vehicle, cart or other conveyance, other than a vending machine, located outdoors, from which a vendor displays, sells, offers for sale, gives away, or offers to give away anything of value including any food, beverage, goods, wares, merchandise or services.
- SUP-Special Use Permit** – A land use permit for moderately intensive operations that may be issued by the Planning Director after a public hearing if the proposal is compatible with surrounding and nearby land uses.
- TEC-Transit Employment Center Zoning District** – intended for intensive industrial-park and supportive commercial uses with development generally at least four (4) stories in height consistent with General Plan height policies and in proximity to existing or planned transit in employment districts designated as Growth Areas in the General Plan.

County of Santa Clara

Public Health Department

Martin Fenstersheib, MD, MPH
Health Officer
976 Lenzen Avenue, 2nd Floor
San José, CA 95126
408.792.3798



March 19, 2013

Jenny Nusbaum, Senior Planner
City of San Jose
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San Jose, CA 95113

Dear Ms. Nusbaum:

As Health Officer for Santa Clara County, I am writing to express my support for the proposed city ordinance and policy changes to make it easier for vendors to sell fresh fruits and vegetables in San Jose.

The goal of the Public Health Department's *Active Living, Healthy Eating* initiative is to assure that all County residents have plenty of opportunities to be physically active, and have access to healthy, affordable foods. You can see from the attached map prepared by the Public Health Department, that there are many neighborhoods in San Jose, that are not within walking distance of a grocery or produce store, Farmers' Market, or community garden, and therefore lack access to affordable, quality, fresh fruits and vegetables. Fresh Carts, mobile vending produce carts, are an opportunity to increase resident's access to affordable produce, while at the same time, creating economic opportunity for vendors' and their families.

Individuals are most likely to purchase and consume fresh fruits and vegetables if they are easily accessible, and affordable. The proposed zoning amendment change, which would allow selling of only whole fresh fruits and vegetables on residentially zoned sites that are primarily used for schools, libraries, community centers, or religious assembly uses, is a necessary change that will create more opportunities for residents to purchase produce as part of their normal routine and movement in their community. Residents are currently bombarded by unhealthy food from corner stores, fast food restaurants, and other vendors. By allowing Fresh Cart vendors to vend in residential areas, as well as vend in non-residentially zoned sites without an Administrative Permit, the City will create an incentive for vendors to legally sell healthy food in those communities most in need.

It is my hope that by enacting these zoning amendment changes, San Jose could become a model for healthy vending in the County, that other cities can follow.

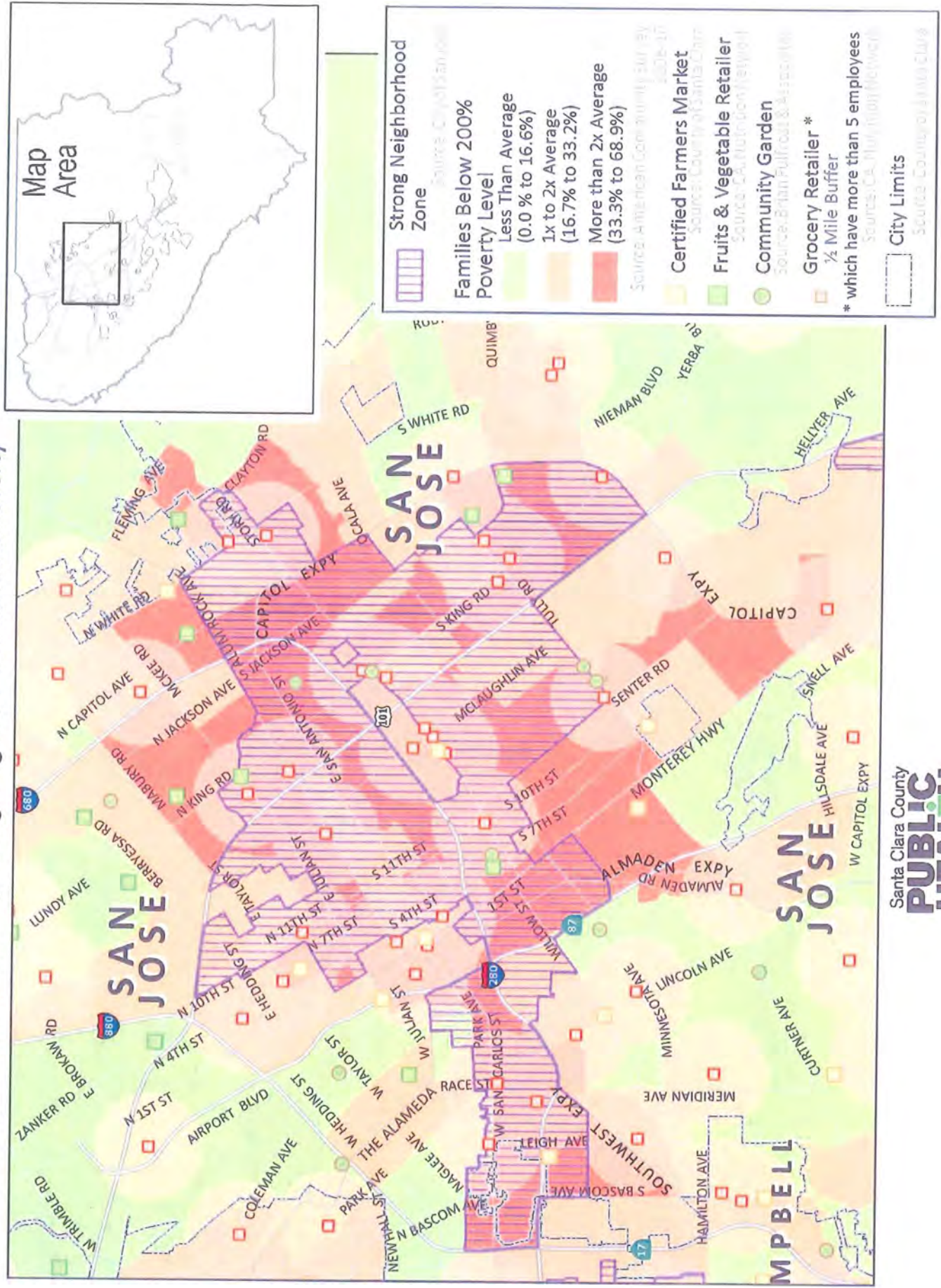
I am looking forward to your response.

Sincerely,

Marty Fenstersheib, MD, MPH
Health Officer

Board of Supervisors: Mike Wasserman, Dave Cortese, Ken Yeager, S. Joseph Simitian
County Executive: Jeffrey V. Smith

San Jose Central - Food Resources, Strong Neighborhood Zones & Poverty



Nusbaum, Jenny

From: Kathy Ericksen [kericksen@SOMOSMAYFAIR.ORG]
Sent: Friday, March 22, 2013 11:23 AM
To: Nusbaum, Jenny
Subject: Outdoor Vendor 3/21/13 meeting
Attachments: Somos Mayfair Food Cart Letters.pdf

Hello Jenny,

I attended the meeting last night with a Mayfair resident, Teresa Bárcenas. We came to have an opportunity to state our position and left without really having the opportunity to do so. We brought letters to read so our comments would be included in the dialogue and the meeting minutes. I'm attaching them here so that you can read our comments of support for healthy options and economic opportunities that should be larger part of the conversation.

Last night, many grumpy non-supportive people side railed the conversation. Enforcement is a HUGE issue to be sure, yet I think it's important to keep in mind that more people in poor communities will benefit by having access to fresh fruits and vegetables and a shot at creating a small self sustaining business then will be inconvenienced by adopting the proposed regulation changes you presented last night.

There will always be grumpy neighbors and a few bad people who take advantage of any opportunity. They should not be the only voices listened to.

Suggestions:

- 1) Limit the total number of vending carts
- 2) Give priority to healthy options carts

Thanks for listening,

Kathy Ericksen

*Director of Operations
 Somos Mayfair
 370B S.King Road
 San Jose, CA 95126*

*CELL (408) 460-5001
 WK (408) 240-4999
www.somosmayfair.org*

Be a part of the biggest Zumba Party in San Jose!

Join me on **Saturday, April 13, 2013** in a 2-hour, nonstop, heart pumping, outdoor Zumbathon! Fun giveaways and prizes, free Zumbatomicms and child care for children under 12, and community resource tables will be available. All proceeds will go to Somos Mayfair's community-led quest to ensure that all Mayfair children are reading by 3rd grade! Tickets are \$15 in advance or \$20 at the door. [Purchase tickets here](#), or avoid the fees by sending a check to Somos Mayfair today! (370-B S King Rd. San Jose, CA 95116).

Can't make it to our event, please [Donate today!](#)

3/22/2013



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Council Member District 2
City of San Jose

Manuel Pastor, Jr.
Director
USC Program for Environmental and
Regional Equity

Nancy Ragey
Nonprofit and Philanthropy Consultant
NKR Consulting Services

March 21, 2013

To City of San Jose Planning Commission:

Approximately in 2008 there was a fresh market very close to my house. It was there every Saturday and I had the opportunity to go buy fresh organic fruit and vegetables without having to go far to shop. My children would come with me and choose fruits and vegetables that they liked to eat because of this they would eat them more often.

Now that there is not a fresh market, it is difficult for me to go to stores and find fresh organic fruits and vegetables. I see that the fruits and vegetables at these stores are fresh but unhealthy because of the preservatives.

In the organization Somos Mayfair, I have learned the importance of good nutrition in adults but even more in our children to prevent diabetes. This is why I am involved in my community giving a nutrition class to educate the families.

When I visit families in their homes, I see they want to make a change but it is difficult because there are so many carts selling junk food instead of fresh organic fruits and vegetables. Families could practice a better nutrition if they had easy access to fresh fruits and vegetables. We give recipes and tips on how to buy fresh fruits and vegetables of the season but this is not enough.

As a resident of Mayfair I am asking you to think about the great impact that selling fresh organic fruits and vegetables could have on the community.

Sincerely,

Teresa Bárcenas
Mayfair Resident



March 21, 2013

Jenny Nusbaum
Planning Director
City of San José
200 E. Santa Clara St.
San José, CA 95116

RE: Outdoor Vending Including Fresh Fruits and Vegetables

Dear Ms. Nusbaum and Planning Commissioners,

On behalf of the Board and Staff of Somos Mayfair and the 10,000 residents of the Mayfair neighborhood in east San José, I write today to encourage you to support amendments to the zoning code to expand outdoor vending of fresh fruits and vegetables.

Somos Mayfair works with 300 families each year to nurture early school success of our kids and family wellness at home and in the streets of Mayfair. One of our core strategies is to support families to adopt daily practices of eating at least five servings of fresh fruits and vegetables each day. This strategy is meant to nurture wellness in order to prevent so many of the chronic illnesses that are caused by poor nutrition that plague our community. Increasing easy access to fresh fruits and vegetables by allowing outdoor vending in new locations is a simple way of supporting San José families to nurture wellness at home.

Another tangible benefit that we expect to result from allowing an outdoor vending strategy will be the creation of new income-generating small business opportunities. This of course puts more money in the pockets of San José families and cuts into the chronic poverty that so afflicts our neighborhood. In turn, the City of San José will see new revenues from small business tax receipts.

We are very excited about the possibilities that arise from an amendment to the zoning code and hope to soon be working to support small business vendors to sell fresh fruits and vegetables to Mayfair families.

Sincerely,


Kate Erickson
Director of Operations

Jaime Alvarado
Executive Director



March 21, 2013

Jenny Nusbaum
Planning Director
City of San José
200 E. Santa Clara St.
San José, CA 95116

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Somos Mayfair works with 300 families each year to nurture early school success of our kids and family wellness at home and in the streets of Mayfair. One of our core strategies is to support families to adopt daily practices of eating at least five servings of fresh fruits and vegetables each day. This strategy is meant to nurture wellness in order to prevent so many of the chronic illnesses that are caused by poor nutrition that plague our community. Increasing easy access to fresh fruits and vegetables by allowing outdoor vending in new locations is a simple way of supporting San José families to nurture wellness at home.

Another tangible benefit that we expect to result from allowing an outdoor vending strategy will be the creation of new income-generating small business opportunities. This of course puts more money in the pockets of San José families and cuts into the chronic poverty that so afflicts our neighborhood. In turn, the City of San José will see new revenues from small business tax receipts.

We are very excited about the possibilities that arise from an amendment to the zoning code and hope to soon be working to support small business vendors to sell fresh fruits and vegetables to Mayfair families.

Sincerely,

Jaime Alvarado
Executive Director

HEALTH

Jenny Nusbaum
Senior Planner
City of San Jose
200 E. Santa Clara St.
San Jose, CA 95116

March 25, 2013

Re: Proposed amendments and regulation changes to support fresh fruit and vegetable vending.

Dear Planning Commission:

The Health Trust supports the proposed zoning ordinance amendments and approved location peddler regulation changes that will make it easier for vendors to sell fresh whole fruits and vegetables in San Jose (see attached for summary position statement). These changes will make it easier for low-income families in communities without access to healthy foods, to buy affordable, quality, fresh fruits and vegetables for themselves and their family.

Over the last few years, as part of our commitment to ensuring that all communities in San Jose have access to fresh fruits and vegetables we have been working with the City of San Jose Department of Planning, Building and Code enforcement, as well as numerous community partners, to address policy barriers to increasing access to fresh fruits and vegetables in San Jose. The Health Trust worked closely with City of San Jose staff and Councilmembers to support the development of strong health language in the recently adopted Envision 2040, as well as to support the implementation of specific policies and actions committed to in the "Access to Healthy Foods" section of the General Plan. In the last year, as part of Campaign for Healthy Food San Jose, the City has made significant strides in making it easier to open small certified farmers' markets in low-income communities, and in ensuring that residents can use their public assistance benefits to purchase produce from those markets. The adoption of the proposed zoning ordinance amendments and approved location peddlers regulations to support vending of fresh fruits and vegetables is a necessary next step in continuing to ensure all residents have access to healthy food.

For the last two years, The Health Trust has been working with community partners, and Karp Resources, a national expert on entrepreneurial run produce vending programs, and technical assistance provider to New York's Green Cart program, to design Fresh Carts Silicon Valley, a fresh fruit and vegetable vending program that will train residents from low-income communities, to become successful entrepreneurs, and own and operate a Fresh Cart.

In 2011, The Health Trust contracted with Karp Resources to conduct a feasibility study of the potential for a mobile fresh produce vending program in San Jose. As part of the feasibility study, Karp Resources conducted interviews and meetings with over 50 stakeholders, including representatives from the Santa Clara County Division of Agriculture, Department of Environmental Health, Public Health Department, and County Supervisors; San Jose City Planning Division and City Council Members; job training and small business support organizations; health clinics and dental centers; community service and hunger organizations; urban farms; and regional agriculture and farmers' markets associations.

While the feasibility study did identify significant opportunity and potential for a successful program, there were significant policy barriers identified, primarily the need for greater alignment between City of San

HEALTH

Jose and Department of Environmental Health permit requirements, and the need for greater clarity and flexibility across the multiple vending permit categories. The assessment found that streamlining the permit process, and allowing Fresh Cart vendors to vend more freely on private property and in residential neighborhoods, would be essential to vendor success.

In follow up to the feasibility study, this past fall, with the support of community organizations that have experience supporting mobile vending in their community, and significant interest from residents in vending healthy food, Karp Resources conducted four focus group sessions with 40+ residents. Key partners included AnewAmerica, Sacred Heart Community Service, and Somos Mayfair. Through these focus groups, we learned that community residents are very interested in a mobile vending initiative, both in terms of patronizing the cart but also working at and running the cart. There is a strong preference to be a cart owner and decision maker (versus a cart employee) and residents we spoke with expressed that in order to become a successful Fresh Cart vendor, they would need support understanding and applying for the appropriate permits and licenses, sourcing and merchandising produce, promoting their business to the community, and training in small business entrepreneurship and management. The Health Trust Board has committed to releasing grant funds this June, to develop a robust entrepreneurship training and technical assistance program to support residents in successfully operating their own Fresh Cart, and to provide resources to community based organizations to recruit vendors, and develop partnerships in their communities to help Fresh Cart owners vend in successful, legal locations.

The importance of policy change on the success of this initiative cannot be understated. Extending the length of the permit and extending durations would allow vendors to focus their energy on building a successful fresh produce business by minimizing time spent reapplying for and understanding the multiple types of permits, which can be a very time consuming and costly process. Allowing vendors to operate without a permit during the day on private property and at public locations in residentially zoned areas would allow fresh produce vendors to easily move between sites in order to best reach children and families on their way to and from school, work, and afterschool programming.

While the proposed regulations will have a significant impact in making it easier to legally vend fresh fruits and vegetables in San Jose, there will still be a need to modify the City's competitive concession agreement process, for vending on City property (i.e. parks, libraries, community centers). The Health Trust requests that the City Manager's office continue to support the vending of fresh fruits and vegetables by creating a revised concession agreement process that will allow vendors to sell at all City owned property through a single permit application process. Doing so would eliminate one of the final barriers to allowing well-intentioned vendors to make a positive health impact on their communities.

We thank and applaud City staff, the Planning Commission and Council for your continued commitment to ensuring all residents in San Jose have access to healthy foods. The Health Trust looks forward to continuing to partner with the City of San Jose on Fresh Carts Silicon Valley.

Sincerely,



Frederick Ferrer
Chief Executive Officer

HEALTH

The Health Trust supports the following proposed vending changes, and requests additional considerations in the drafting and implementation of the proposed changes for "Outdoor Vending of fresh whole fruits and vegetables," as indicated below.

All types of Outdoor Vending with Fixed-base Host

- **SUPPORT** "expanding the duration from the current ½ hour to a longer duration that an Outdoor Vending Facility could operate without an Administrative Permit."

Lengthen Permit Term for all Administrative Permits

- **SUPPORT** "Lengthening initial Administrative Permit duration to 3 years from current 1 year."
- **SUPPORT** "Lengthening renewal time extension to 5 years from current 2 years."

Outdoor Vending of fresh whole fruits and vegetables

- **SUPPORT** "Allowing outdoor vending of fruits and vegetables for a few hours daily without an Administrative Permit on residentially zoned sites that are primarily used for schools, libraries, community centers, or religious assembly uses."
 - **REQUEST** *allowing vendors to operate during the day, remaining in one site for multiple hours in order to best reach children and families on their way to or from school, work, afterschool programming, etc.*
 - **REQUEST** *that the City process for vending on public property in residentially zoned areas, including parks, as well as proposed libraries and community centers, is modified from its current competitive concession agreement process, to one that allows vendors selling fresh fruits and vegetables to easily move between sites with a single permit.*
- **SUPPORT** "Allowing vending of fruits and vegetables on non-residentially zoned sites from 7 a.m. to 9 p.m. without an Administrative Permit. Specific criteria in the Zoning Ordinance must be met."
 - **REQUEST** *that the specific criteria in the Zoning Ordinance supports successful vending of fresh fruits and vegetables. Work with The Health Trust and Fresh Cart partners to develop specific criteria that support the Fresh Cart model.*

Outdoor Vending on public right-of-way

- **SUPPORT** "Modifying conditions for Approved Location Peddlers operating in the public right-of-way... to be consistent with County requirements, lift these Peddlers' cart restrictions, provide more space for these Peddlers to operate from, extend their hours of operation, and extend the term of their Peddler permit."



ChangeLab Solutions

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March 20, 2013

Jenny Nusbaum, Project Manager
City of San Jose Department of Planning

Outdoor Vending of Fresh Whole Fruits and Vegetables

Dear Ms. Nusbaum:

Eating more fresh fruits and vegetables can help kids and families maintain healthy weight and prevent many chronic diseases.¹ Unfortunately, too many residents in San Jose still lack access to fresh fruits and vegetables. In these communities, where only candy, chips, soda, and other junk foods are readily available, fresh produce cart vendors can have a significant impact. Expanding opportunities to purchase healthy produce in more San José neighborhoods is an efficient and low-cost way to improve community health and support local entrepreneurs.

For more than a decade, ChangeLab Solutions, (formerly known as Public Health Law & Policy) has worked to strengthen the capacity of state and local governments and public health stakeholders to create healthy communities. ChangeLab Solutions works directly with government agencies, elected officials, and community groups by providing in-depth legal and policy analysis that serves to strengthen each of their capabilities, and enable them to take effective action towards positive health outcomes. We specialize in researching and drafting model laws and policies, providing analysis and recommendations on environmental change strategies, developing educational toolkits and fact sheets, and providing on-demand training and technical assistance to support stakeholders in their policy reform efforts. We have supported the efforts of the Campaign for Healthy Food San José to increase access to healthy food for all residents, as well as similar efforts in hundreds of communities across the US.

Mobile food vendors can travel deep into neighborhoods most in need of fresh produce, and unlike supermarkets, they do not require large capital investments to start operations. Mobile vendors can also adjust their inventory quickly to fit the unique cultural demands of the community. Establishing a program for mobile produce vendors can have economic benefits, provide local entrepreneurs with small business opportunities, and contribute to neighborhood economic development by revitalizing local commercial districts. Well-designed mobile vending programs can contribute to a sense of place and vibrancy by activating under-utilized community spaces and creating more “eyes on the street,” one of the central principles of “crime prevention through environmental design” (CPTED).¹¹

ChangeLab Solutions is a nonprofit organization that provides legal information on matters relating to public health. The legal information in this document does not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state.

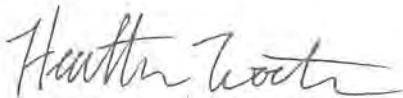
Fresh fruit and vegetable vending has a strong history in communities across the country, and is re-emerging as a best practice for meeting the nutritional needs of residents, particularly in neighborhoods underserved by healthy food retail:

- In New York City, the city council created a "Green Carts" permit program, issuing up to 1000 permits for vendors to sell produce in neighborhoods with few other healthy options.ⁱⁱⁱ
- A new ordinance in Chicago established a produce cart permit that requires vendors to place at least 50 percent of their carts in areas that lack grocery stores and access to fresh fruits and vegetables.^{iv} This change made possible a social venture called "Neighbor Carts," a public-private partnership supported by the Department of Housing and Economic Development, which provides pathways to entrepreneurial development for unemployed residents through cart ownership.^v
- Kansas City uses its mobile vending permit to incentivize healthier options: mobile food vendors in city parks get a 50 percent discount on their annual park vending permit if half the food they sell meets certain nutritional standards.^{vi} The city also gives vendors greater access to parks and prime locations if they increase the amount of healthier food they offer to 75 percent.^{vii}
- Portland, Maine and Richmond, Virginia, mobile produce trucks fill in for vendors to help meet demand for fresh produce.^{viii}

San José has committed to supporting healthy food access for underserved neighborhoods in its General Plan.^{ix} Establishing regulations for mobile produce vending will contribute towards the implementation of these goals. We applaud the City of San José for their work on healthy food access in seeking to establish a mobile produce cart program.

For more information about food deserts, healthy food and mobile produce vending, please visit our website: <http://changelabsolutions.org/childhood-obesity/mobile-vending-produce-carts>. We would be happy to respond to any questions you might have about developing a mobile produce cart program.

Sincerely,



Heather Wooten
Senior Planner & Program Director
hwooten@changelabsolutions.org
510-302-3370

ⁱ U.S. Dep't of Health and Human Services, U.S. Dep't of Agriculture. *Dietary Guidelines for Americans 2005* (2005), p. 2. Available at: www.health.gov/dietaryguidelines/dga2005/document/.

ⁱⁱ CPTED seeks to enhance perceptions of safety and reduce the likelihood that crime will occur. See: Saville, G., Mangat, M. *SafeGrowth: Creating Safety and Sustainability through Community Building and Urban Design*. Local Initiatives Support Corporation (LISC) (2008). Available at: [www.lisc.org/csi/strategies & solutions/crime prevention through environmental design/safegrowth creating safety & sustainability through community building and urban design.php](http://www.lisc.org/csi/strategies%20&%20solutions/crime%20prevention%20through%20environmental%20design/safegrowth%20creating%20safety%20&%20sustainability%20through%20community%20building%20and%20urban%20design.php).

ⁱⁱⁱ Information about NYC Green Carts available at: www.nyc.gov/html/doh/html/diseases/green-carts.shtml.

^{iv} City of Chicago, Office of the Mayor (2012). Mayor Emanuel applauds passage of ordinance that will increase access to fresh and healthy food throughout city's communities [press release]. Available at: www.cityofchicago.org/dam/city/depts/mayor/Press%20Room/Press%20Releases/2012/June/6.6.12FreshFoodApprove.pdf

^v Information about Neighbor Carts available at: <http://streetwise.org/neighborcarts/>.

^{vi} Kansas City, Mo., Kansas City Parks and Recreation Vending Policy 4.7.08 (Revised Dec. 12, 2006). Available at: www.kcmo.org/parks/park_vending_policy.pdf.

^{vii} *Id.*

^{viii} Jordan's Farm, Cape Elizabeth, ME. <http://www.jordansfarm.com/MobileFarmStand.html>; The Farm Bus, Richmond, VA. <http://thefarmbus.com/>; See also, Gerber, Judi. "Mobile Farm Trucks Bring the Produce to the People." Care2.com. <http://recipes.howstuffworks.com/mobile-farm-trucks-bring-the-produce-to-the-people.htm/printable>.

^{ix} Envision San José 2040 (2007). See Goal VN-3 – Access to Healthful Foods and related policies. Available at: www.sanjoseca.gov/DocumentCenter/Home/View/474